

(i) Immediately following the termination, the corporation (or its successor corporation) is otherwise eligible to make an S election or have a QSub election made for it; and

(ii) The relevant election is made effective immediately following the termination of the QSub election.

(3) *Examples.* The following examples illustrate the application of this paragraph (c):

*Example 1. Termination upon distribution of QSub stock to shareholders of parent.* X, an S corporation, owns Y, a QSub. X distributes all of its Y stock to X's shareholders. The distribution terminates the QSub election because Y no longer satisfies the requirements of a QSub. Assuming Y is otherwise eligible to be treated as an S corporation, Y's shareholders may elect to treat Y as an S corporation effective on the date of the stock distribution without requesting the Commissioner's consent.

*Example 2. Sale of 100 percent of QSub stock.* X, an S corporation, owns Y, a QSub. X sells 100 percent of the stock of Y to Z, an unrelated S corporation. Z may elect to treat Y as a QSub effective on the date of purchase without requesting the Commissioner's consent.

[T.D. 8869, 65 FR 3852, Jan. 25, 2000; 65 FR 16318, Mar. 28, 2000, as amended by T.D. 8869, 67 FR 65313, Oct. 24, 2002]

#### § 1.1361-6 Effective date.

Except as provided in §§ 1.1361-4(a)(3)(iii), 1.1361-4(a)(5)(i), and 1.1361-5(c)(2), the provisions of §§ 1.1361-2 through 1.1361-5 apply to taxable years beginning on or after January 20, 2000; however, taxpayers may elect to apply the regulations in whole, but not in part (aside from those sections with special dates of applicability), for taxable years beginning on or after January 1, 2000, provided all affected taxpayers apply the regulations in a consistent manner. To make this election, the corporation and all affected taxpayers must file a return or an amended return that is consistent with these rules for the taxable year for which the election is made. For purposes of this section, affected taxpayers means all taxpayers whose returns are affected by the election to apply the regulations.

[T.D. 8869, 65 FR 3854, Jan. 25, 2000]

#### § 1.1362-0 Table of contents.

This section lists the captions that appear in the regulations under section 1362.

##### *§ 1.1362-1 Election to be an S corporation.*

- (a) In general.
- (b) Years for which election is effective.

##### *§ 1.1362-2 Termination of election.*

- (a) Termination by revocation.
  - (1) In general.
  - (2) When effective.
    - (i) In general.
    - (ii) Revocations specifying a prospective revocation date.
      - (3) Effect on taxable year of corporation.
      - (4) Rescission of a revocation.
    - (b) Termination by reason of corporation ceasing to be a small business corporation.
      - (1) In general.
      - (2) When effective.
      - (3) Effect on taxable year of corporation.
    - (c) Termination by reason of excess passive investment income.
      - (1) In general.
      - (2) When effective.
      - (3) Subchapter C earnings and profits.
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        - (i) In general.
        - (ii) Special rules for sales of capital assets, stock and securities.
          - (A) Sales of capital assets.
          - (B) Sales of stock or securities.
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            - (2) Treatment of certain liquidations.
            - (3) Definition of stock or securities.
            - (4) General partner interests.
              - (i) In general.
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              - (ii) Definitions.
                - (A) Royalties.
                  - (f) In general.
                  - (2) Royalties derived in the ordinary course of a trade or business.
                - (3) Copyright, mineral, oil and gas, and active business computer software royalties.
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                    - (f) In general.
                    - (2) Rents derived in the active trade or business of renting property.
                  - (3) Produced film rents.
                  - (4) Income from leasing self-produced tangible property.
                - (C) Dividends.
                - (D) Interest.
                  - (f) In general.
                  - (2) Interest on obligations acquired in the ordinary course of a trade or business.
                - (E) Annuities.
                - (F) Gross receipts from the sale of stock or securities.