

IRS News Release

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IRS Offers Relief for Late S Corporation Elections

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WASHINGTON — Businesses that are eligible to elect S corporation tax treatment now have a simpler process for requesting relief for late elections under a change announced by the Internal Revenue Service today.

Revenue Procedure 2007-62 allows small businesses that missed filing Form 2553, Election by a Small Business Corporation, before filing their first Form 1120S, U.S. Income Tax Return for an S Corporation, to file both forms simultaneously. The change is effective for taxable years that end on or after Dec. 31, 2007. Internal Revenue Bulletin 2007-41, published on Oct. 9, 2007, includes this new guidance.

The IRS cautioned that the requirement for filing Form 2553 to establish the election in advance of filing the initial Form 1120S remains in effect. However, the new process will save time and effort for those taxpayers who can establish reasonable cause for making a late election.

Form 2553 will be updated to reflect the new rules, so taxpayers filing paper Forms 2553 should download the most recent revision from IRS.gov. Form 2553 can also be submitted electronically as an attachment to an e-filed Form 1120S.

There is relief under earlier guidance for late elections for taxpayers who meet certain conditions. Previously, taxpayers had to submit Form 2553 along with a statement explaining the reasons for the late election. The new guidance provides a simplified method to request relief by permitting taxpayers to file their first Form 1120S along with Form 2553 and include the statement on the form.

Small business corporations that are eligible for tax treatment under Subchapter S of the Internal Revenue Code enjoy the advantages of the corporate structure while being taxed similarly to a partnership or sole proprietorship.

The new procedure will reduce taxpayer burden by allowing the agency to process a properly completed tax return and its corresponding election without delays or additional contacts with taxpayers to resolve the issue of a missing election.

The change, based on suggestions from tax professionals and small business owners, resulted from the work of an IRS process improvement team led by the Office of Taxpayer Burden Reduction.