

## INTERNAL REVENUE SERVICE

Number: **INFO 2000-0233**  
Release Date: 9/30/2000

CC:PSI:1-COR-112999-00

August 23, 2000

UILC 1362.00-00

[REDACTED]:

We are responding to your correspondence requesting relief in order to establish S corporation status beginning with taxable year 1989. This letter provides useful information relating to your request. The information submitted indicates that you continued using a Sole Proprietor Employer Identification Number after the business had incorporated, which resulted in the Internal Revenue Service merging the old and current EINs. Your Form 2553 (subchapter S election form) submitted in July 1998 was denied because it was received late. Our archives reflect that Forms 1120S have been filed under your former EIN for taxable years 1994 and 1995; with subsequent returns filed using the current EIN. All S corporation returns have been converted to C corporation status because the Service had no record of receiving Form 2553 in a timely manner.

Based on the *Instructions to Form 2553*, taxpayers are generally notified of acceptance or nonacceptance of their election within three months of date of filing (date mailed). If the IRS questions whether the election was filed, acceptable proof of filing is (a) certified or registered mail receipt; (b) Form 2553 with an accepted stamp; (c) Form 2553 with stamped IRS received date; or (e) an IRS letter stating the election has been accepted.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late S corporation elections and inadvertent invalid S corporation elections. Generally, to request relief for a late or invalid S corporation election you must request a private letter ruling from the National Office. The procedures for requesting a private letter ruling are set out in Revenue Procedure 2000-1 (copy enclosed). In addition, Rev. Proc. 2000-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$5,000. However, taxpayers with gross income of less than \$1 million on their last-filed tax return qualify for a **reduced user fee** in the amount of \$500. If you are eligible to use the reduced fee provision

you must include the statement described in § (B)(1)(b) of Appendix A with your request. Please review Appendix B for a sample format for requesting a private letter ruling.

In this case, your subchapter S returns for taxable years 1994 through 1996 were not accepted by the Internal Revenue Service because the Service had no record of a subchapter S election. You may obtain relief for the late filed subchapter S election by submitting a request for a private letter ruling. If you decide to submit a formal request for a private letter ruling, please include the proper user fee (if applying under the reduced fee provisions, send a statement certifying gross income). Please refer your request to our office by adding the following to the address:

Attn: CC:P&A  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

Direct to: CC:PSI:1  
Room 5002

Please keep this letter with your tax records. We hope that the above information proves helpful.

Sincerely yours,

**/s/ Dianna K. Miosi**

DIANNA K. MIOSI  
Chief, Branch 1  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures:

Announcement 97-4  
Rev. Proc. 2000-1