

INTERNAL REVENUE SERVICE

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October 17, 2000

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[REDACTED]:

We are responding to correspondence, submitted via fax, requesting relief in order to establish 1998 as the effective year for your S corporation election. The information submitted explains that you were under the impression your corporation had S status effective upon inception. However, the Internal Revenue Service has no record of receiving an election for your account. Because your tax return for the 1998 taxable year was received late, you are ineligible for automatic late S corporation relief. Although we are unable to respond to your request as submitted, this letter provides useful information relating to your situation.

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. Sending an election via regular mail fails to provide adequate proof of filing.

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 pay the reduced fee, a statement certifying your gross income must accompany your request; otherwise, you will be billed for the higher fee. Please review Appendix B for a sample format for requesting a private letter ruling.

If you decide to submit a formal request for a private letter ruling, please provide documents supporting your intention to be an S corporation from inception, include the proper user fee, and 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:B1
Room 5002

Please keep this letter with your tax records and feel free to provide a copy of it to your authorized representative. 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