

INTERNAL REVENUE SERVICE

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February 8, 2001

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We are responding to your correspondence requesting relief in order to establish 1998 as the effective year for your S corporation election. It appears your business was classified as a partnership for 1998 and 1999, but no tax returns have been filed. Your business was designated as a corporation beginning with the 2000 tax year, based on the filing date of Form 8832. Although we are unable to respond to your request as submitted, this letter provides useful information relating to your request.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late S corporation elections under § 1362(b)(5) of the Internal Revenue Code. Generally, to request relief for a late or invalid S corporation election you must request a private letter ruling from the National Office. You must also seek concurrent late entity election relief under § 301.9100-3 of the Procedure and Administration Regulations, because your Form 8832 was filed late. Both issues can be handled under one private letter ruling request. The procedures for requesting a private letter ruling are set out in Revenue Procedure 2001-1 (copy enclosed). In addition, Rev. Proc. 2001-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$6,000. 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.

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), 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:1
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. 2001-1