

INTERNAL REVENUE SERVICE

CC:PSI:1-COR-104451-01

April 4, 2001

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[REDACTED]:

We are responding to correspondence, submitted originally to the Memphis Service Center on your behalf by [REDACTED], requesting relief in order to establish March 10, 1997, as the effective date for your S corporation election. The information submitted explains that a timely election was filed. However, it appears that the Internal Revenue Service failed to receive a timely election. Further, your election was due by May 24, 1997, but the election was signed and dated on July 27, 1997 (late). If you have proof of mailing an earlier Form 2553, we can consider your request. Although we are currently unable to respond to your request as submitted, this letter provides useful information relating to your request.

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.

In Revenue Procedure 97-48 the Internal Revenue Service provides special procedures that permit taxpayers in certain situations to obtain automatic late S corporation relief instead of applying for a private letter ruling. However, you are ineligible for *automatic* relief because the Service sent notice about the Form 2553 deficiency within 6 months of receiving your first Form 1120S tax return.

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 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