

INTERNAL REVENUE SERVICE

Number: **INFO 2001-0178**

Release Date: 9/28/2001

[REDACTED]

[REDACTED]
[REDACTED]

CC:PSI:1-COR-132508-01

July 11, 2001

UILC 1362.00-00

[REDACTED]:

We are responding to correspondence, submitted on your behalf by [REDACTED], requesting relief under Revenue Procedure 97-48 in order to establish February 17, 1997 as the effective date for your S corporation election. The information submitted indicates that you failed to file a timely Form 2553, have not received any notification from the Internal Revenue Service as to any problem with your S corporation status, and have filed 1997, 1998, and 1999 tax returns using Forms 1120S. However, IRS records reflect that three notification letters have been sent questioning your S corporation status. The first of these letters was issued in September 1998, which was within one month after receiving your 1997 tax return.

In Revenue Procedure 97-48, the IRS provides special procedures that permit taxpayers in certain situations to obtain automatic late S corporation relief instead of applying for a private letter ruling. Because notice about the deficiency was sent within six months of the date that you filed your first return, your situation is precluded from automatic relief under Rev. Proc. 97-48.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late 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. However, because your first tax return was filed late, you are precluded from automatic relief.) The procedures for requesting a ruling are set out in Revenue Procedure 2001-1 (copy enclosed). In addition, a proper user fee must be submitted along with your request. The fee for a ruling is \$6,000; however, taxpayers with gross income of less than \$1 million for the last 12-month taxable period qualify for a **reduced user fee** in the amount of \$500. If your business qualifies for the reduced fee, your request must include a statement certifying gross income; otherwise, you will be billed the higher fee. Please format your ruling request as shown in Appendix B of Rev. Proc. 2001-1.

If you decide to submit a ruling request, please provide documents supporting your intention to be an S corporation, and include the proper user fee. Please refer your package to our office by adding the following to the address:

Attn: CC:PA:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Direct to: CC:PSI:B1
Room 5002

If you have computer web access, you may wish to visit www.irs.gov/smallbiz for specialized tax information, products, and forms relating to small businesses.

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
Copy of submission