

INTERNAL REVENUE SERVICE

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Release Date: 9/28/2001



CC:PSI:1-COR-132462-01

July 11, 2001

UILC 1362.00-00



We are responding to your correspondence postmarked March 31, 2001, requesting late S corporation relief under Revenue Procedure 98-55, in order to establish July 28, 2000, as the effective date for your S corporation election. The information submitted indicates that you filed Form 2553 in August 2000, but failed to arrange for a receipt reflecting timely mailing. Internal Revenue Service records reflect no record of receiving a timely election for your corporation.

The window for automatic relief under Rev. Proc. 98-55 involving the 2000 taxable year closed on March 15, 2001 (unextended return due date). Because your request to our office was postmarked after the window of relief had closed, you are ineligible for automatic relief. The only other option for automatic relief, Rev. Proc. 97-48, is also unavailable because notice about the underlying Form 2553 deficiency was sent by the IRS within six months of receiving your Form 1120S for the 2000 tax year.

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. 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