

INTERNAL REVENUE SERVICE

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CC:PSI:1-COR-116119-01

August 15, 2001

Number: **INFO 2001-0213**

Release Date: 9/28/2001

UILC 1362.00-00

[REDACTED]:

We are responding to your correspondence requesting relief in order to establish January 1, 1999, as the effective date for your S corporation election. The information submitted explains that your election filed under Revenue Procedure 97-48 was rejected. Although we are unable to respond to your request as submitted, this letter provides useful information relating to your request.

The taxpayer's 1999 tax return was received in June 2000 (under an extension); however the Internal Revenue Service letter was issued in October 2000, well within the six month window prescribed by Rev. Proc. 97-48. Because a letter describing the Form 2553 deficiency was sent by the IRS within six months of the date of your 1999 Form 1120S was filed, the corporation failed to pass the requirement set forth in section 4.01(1)(d) of Rev. Proc. 97-48, and was deemed ineligible for automatic relief. The taxpayer's Form 2553 was returned, closely followed by a letter explaining the situation.

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

Direct to: CC:PSI:1
Room 5002

By way of introduction, the IRS has a new small business website which provides specific information and various links to useful non-IRS sites. Visit this new site at www.irs.gov/smallbiz. Additionally, you can order a single, free copy of the *Small Business Resource Guide CD-ROM 2001*, by calling 1-800-829-3676. The CD-ROM provides critical tax information including forms, instructions, and publications, as well as valuable business information from a variety of government agencies, non-profit organizations, and educational institutions.

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