

INTERNAL REVENUE SERVICE

Number: **INFO 2001-0257**

Release Date: 12/31/2001

[REDACTED]

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CC:PSI:1-COR-138422-01

Sept. 18, 2001

UILC 1362.00-00

[REDACTED]:

We are responding to your correspondence requesting relief in order to establish June 1, 1999, as the effective date for your S corporation election. The information submitted explains that the taxpayer filed Form 2553 in June 1999, but has no proof of such filing. It appears that you are ineligible for automatic late S corporation relief under Revenue Procedure 97-48 because you were notified about the Form 2553 deficiency within 6 months of filing your first Form 1120S tax return. Although we are unable to respond to your request as submitted, this letter provides useful information about correcting your situation.

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. Since you have no proof of timely filing your election, you must request relief via the private letter ruling process.

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