

INTERNAL REVENUE SERVICE

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[REDACTED]

CC:PSI:1-COR-138749-01

September 18, 2001

UILC 1362.00-00

[REDACTED]:

We are responding to your correspondence requesting relief in order to establish August 1, 1982, as the effective date for your S corporation election. The information submitted explains that the corporation's S election was not timely filed due to an omission by the corporate accountant. Although we are unable to respond to your request as submitted, this letter provides useful information relating to your request.

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 the period of limitations on assessment, under § 6501(a) of the Internal Revenue Code (commonly known as "the statute of limitations"), for the taxable years in which an election should have been made or any taxable year that would have been affected by the election had it been timely made, will expire before issuance of the ruling, the Service ordinarily will not issue such a ruling. Generally, § 6501 provides for a three year period after the filing date of a return for assessments for that tax year. After the three year period has past, the Service typically considers the years "closed," with certain exceptions (*e.g., false return; willful attempt to evade tax; no return*), and refuses to rule. In other words, we can only provide a ruling for years that are

considered to be "open" under § 6501.

You may request a ruling for any tax years considered open under § 6501. 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), explain why your election was not received timely, attach any documents that support your position, 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