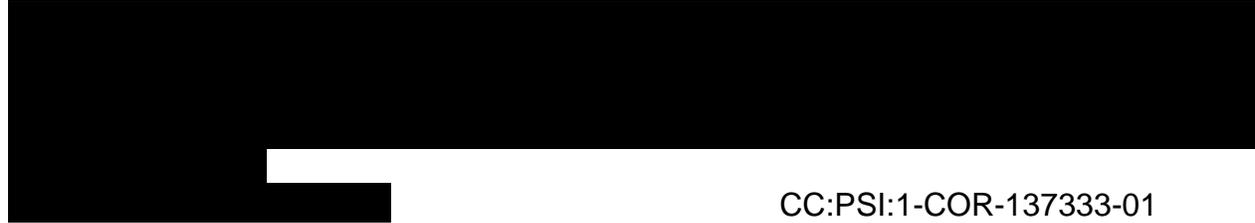


INTERNAL REVENUE SERVICE

Number: **INFO 2002-0010**

Release Date: 3/29/2002



CC:PSI:1-COR-137333-01

Dec 17 2001

UILC 1361.00-00



We are responding to your correspondence requesting assistance in order to revoke your S corporation election. The information submitted indicates that you attempted to elect S corporation status for 1998, but filed your Form 2553 late. Subsequently, your election was accepted instead for January 1, 1999, after you had satisfied consent signatures. However, for all taxable years since inception, you have filed your returns using Forms 1120 (C corporation return) when you should have used Form 1120S (S corporation return).

The Internal Revenue Code currently does not have a provision for taxpayers who wish to retroactively revoke their S corporation status. Therefore, please amend your 1999 and 2000 returns as requested by the Cincinnati Service Center.

Your S corporation status can be terminated by affirmatively revoking it. Pursuant to § 1.1362-2 of the Income Tax Regulations, a revocation made during the taxable year and before the 16th day of the third month of the taxable year is effective on the first day of the taxable year and a revocation made after the 15th day of the third month of the taxable year is effective for the following taxable year.

The manner of revoking an election is discussed in § 1.1362-6(a)(3), and requires the corporation to file a statement that the corporation revokes the election made under § 1362(a). The statement must be filed with the service center where the election was properly filed. The revocation statement must include the number of shares of stock issued and outstanding at the time the revocation is made. A revocation may be made only with the consent of shareholders who, at the time the revocation is made, hold more than one-half of the number of issued and outstanding shares of stock of the corporation. Each shareholder who consents to the revocation

must consent in the manner described in § 1.1362-6(b), which requires the taxpayer to set forth the name, address, and taxpayer identification number of the shareholder, the

number of shares of stock owned by the shareholder, the date on which the stock was acquired, the date on which the shareholder's taxable year ends, the name of the S corporation, the corporation's taxpayer identification number, and the revocation to which the shareholder consents. The statement must be signed by the shareholder under penalties of perjury. If you choose to revoke your S corporation election, we recommend that you send your revocation statement information via certified mail.

Please keep this letter with your tax records and 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)