

INTERNAL REVENUE SERVICE

Department of the Treasury

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Washington, DC 20224

Person to Contact:

[REDACTED]

Refer Reply To:

CC:PSI:1-GENIN-110770-02

Date:

June 21 2002

[REDACTED]

We are responding to your correspondence dated January 30, 2002, requesting relief in order to establish October 11, 2000 as the effective date for [REDACTED] S corporation election. Although we are unable to respond to your request as submitted, this letter provides useful information relating to your request.

Based on the information you have provided, [REDACTED] a limited liability company, was incorporated on October 11, 2000. It intended to be treated as an S corporation from the date of incorporation. In 2001, it filed a late Form 8832 to be classified as a corporation for federal taxation purposes. The Internal Revenue Service accepted the late Form 8832 and gave an effective date of February 5, 2001. In April, 2001, Taxpayer filed an Subchapter S corporation tax return (Form 1120s) for tax year 2000, within the authorized extension of time to file. In September, 2001, it also filed a Form 2553 to elect to be treated as an S corporation. In a letter dated November 26, 2001, the Service accepted the S election effective February 5, 2001.

To be treated as an S corporation, a limited liability company must first be classified as a corporation for federal taxation purposes. In the instant case, Taxpayer was classified as a corporation effective February 5, 2001. To obtain an S election effective October 11, 2000, however, Taxpayer may first seek to be classified as a corporation effective October 11, 2000. To do this, Taxpayer may seek relief, by way of a private letter ruling request, under §§301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations for an extension of time to make an election, and in this case, to file Form 8832.

The procedures for requesting a private letter ruling are set out in Revenue Procedure 2002-1 (copy enclosed). In addition, Rev. Proc. 2002-1 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 small business website which provides information and various useful links. Visit this special site at www.irs.gov/smallbiz. Additionally, you can order a single, free copy of the *Small Business Resource Guide* CD-ROM, by calling 1-800-829-3676. The CD-ROM provides critical tax information including forms, instructions, and publications, as well as valuable information from a variety of government agencies, non-profit organizations, and educational institutions.

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:

Rev. Proc. 2002-1