

INTERNAL REVENUE SERVICE

Number: **INFO 2002-0161**

Release Date: 9/30/2002

[REDACTED]

CC:PSI:1-GENIN-107372-01

March 15 2002

UILC: 1362.00-00

[REDACTED]:

We are responding to correspondence, submitted on your behalf by [REDACTED], requesting relief in order to establish 1999 as the effective taxable year for an S corporation election. The information submitted explains that Form 2553 was never received by the Internal Revenue Service but you have filed both 1999 and 2000 tax returns using Forms 1120S. Your corporate account reflects that the IRS sent a notice to you regarding the lack of an election in May 2000, which was within six months after they received your 1999 tax return. Therefore, you are ineligible for automatic late S corporation relief under Revenue Procedure 97-48. 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 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 tax return for the last 12-month taxable period qualify for a **reduced user fee** in the amount of \$500. If you qualify for this reduced fee you must include with your request a statement verifying your 2001 gross income. Please review Appendix B of Rev. Proc. 2002-1 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, include information that substantiates your intent to be an S corporation from the requested effective date, 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 specific information and various useful links. 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*, 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,



DIANNA K. MIOSI
Chief, Branch 1
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Announcement 97-4
Rev. Proc. 2002-1