

INTERNAL REVENUE SERVICE

Number: **INFO 2003-0120**

Release Date: 6/30/2003

[REDACTED]
[REDACTED] CC:PSI:1-
GENIN122112-03

April 23 2003

UILC 1362.01-03

Dear [REDACTED]

We are answering correspondence, submitted on your behalf by [REDACTED], requesting automatic relief under Revenue Procedure 97-40, for late S corporation election, in order to establish January 1, 2000, as the effective taxable year for your election. The information submitted explains that Form 2553 was not filed timely due to your poor health.

Automatic late S corporation relief is unavailable under Rev. Proc. 98-55, which superceded Rev.Proc. 97-40, because the Internal Revenue Service received your request after the extended filing period. Further, you are ineligible for automatic relief under Rev. Proc. 97-48 because your return for the 2000 taxable year was filed late. Although we are unable to respond to your request as submitted, this letter provides information relating to your request.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late S corporation elections. Generally, to request relief for a late S corporation election you must request a private letter ruling from the National Office. The information forwarded to our office is insufficient for us to process a private letter ruling request. The procedures for requesting a private letter ruling are set forth in Revenue Procedure 2003-1 (copy enclosed). In addition, taxpayers must 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 most recent 12-month taxable year, qualify for a **reduced user fee** in the amount of \$500. If you qualify for the reduced fee, you must include a statement certifying your gross income for the last 12-month taxable year (2002).

If you decide to submit a formal request for a private letter ruling, please follow the sample format provided in Appendix B of Rev. Proc. 2003-1. Your request should include all required procedural statements, a check for the user fee, and any documents that substantiate your intent to be an S corporation from inception. Please

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

In addition, the IRS has developed two new CD-ROMs to help educate small business owners on their tax responsibilities: (1) *Introduction to Federal Taxes for Small Business/Self-Employed*; and (2) *A Virtual Small Business Workshop*. These two CD-ROMs are free and can be ordered by calling 1-800-829-3676. The IRS also provides a special website, www.irs.gov/smallbiz which is dedicated to providing information to small business taxpayers.

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. 2003-1