

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Person To Contact:
ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01 – GENIN-150277-03

Date:
Oct 27 2003

Taxpayer = [REDACTED].

Dear [REDACTED]:

We are responding to your letter on behalf of the Taxpayer, dated March 26, 2003, requesting a late S election effective April 23, 2001. Although we are unable to respond to the request as submitted, this letter provides useful information relating to the request.

According to the information provided, the Taxpayer filed a Form 2553 electing to be treated as an S corporation in 2001. But the IRS returned the form as it was incomplete, and instructed the Taxpayer to complete the form and refile within 30 days. The Taxpayer refiled the form in October 2001, outside the 30-day period as instructed. The IRS rejected the election. The Taxpayer did not make any other attempt to make a late S election. Under the circumstances, Rev. Proc. 97-48, Rev. Proc. 98-55, and Rev. Proc. 2003-43 do not apply. To obtain relief, the Taxpayer may request a private letter ruling.

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 2003-1 (copy enclosed). In addition, Rev. Proc. 2003-1

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,

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

Enclosures:

Announcement 97-4
Rev. Proc. 2003-1