

INTERNAL REVENUE SERVICE

Number: **INFO 2003-0298**

Release Date: 12/31/2003

CC:PSI:1-GENIN-156655-03

Oct 17 2003

UILC 1362.01-03

Dear [REDACTED]:

We are responding to correspondence submitted by [REDACTED], Esquire, requesting relief for a late S corporation election, citing the automatic provisions found in Revenue Procedure 98-55. Based on the information as submitted, it appears that your corporate representative inadvertently failed to file your election, which was to be effective as of the 2001 taxable year.

The window period for automatic relief under Rev. Proc. 98-55 (which has since been superceded by Rev. Proc. 2003-43) ended on March 15, 2002. You are also ineligible for automatic relief pursuant to Rev. Proc. 97-48, because the Internal Revenue Service sent a notice about the missing election within six months of receiving your first Form 1120S tax return. Although we are unable to grant automatic relief, this letter provides information relating to your request.

Generally, to request relief for a late S corporation election you must request a private letter ruling (PLR) from the National Office. The request sent to our office is insufficient for us to process a PLR because it cites an automatic provision that does not apply to your situation. The procedures for requesting a PLR are set forth in Revenue Procedure 2003-1 (copy enclosed). The standard fee is \$6,000; however, if you had corporate gross income of less than \$1 million on your tax return for the most recent 12-month taxable period, you are qualified for a *reduced fee* in the amount of \$500. If you qualify for the reduced fee, you must include a statement certifying your corporate gross income for the 2002.

If you decide to submit a formal request under 1362(b)(5) of the Internal Revenue Code, 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
Chief, Branch 1
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Announcement 97-4
Rev. Proc. 2003-1