

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Person To Contact:

, ID No. 50-06241

Telephone Number:

Refer Reply To:

CC:PSI – GENIN-169583-03

Date:

January 07, 2004

Dear [REDACTED]

We are answering correspondence, submitted by your representative, requesting automatic relief in order to establish September 19, 2001, as the effective date for your S corporation election. Based on the information provided, a Form 2553 was prepared but the Internal Revenue Service failed to receive the election in a timely manner and instead granted the election for January 1, 2002. Automatic relief is unavailable under Revenue Procedure 97-48 because your first Form 1120S tax return was filed late. Further, relief is unavailable under Rev. Proc. 98-55 (*superceded by Rev. Proc. 2003-43*) since your election was submitted past the window period. Although we are unable to respond to your request as submitted, this letter provides information about rectifying your situation.

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 claiming that your gross income for the last 12-month taxable year was less than one million dollars.

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

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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:

Internal Revenue Service
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/businesses/small 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