

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **INFO 2004-0070**

Release Date: 3/31/04

Index Number: 1362.02-01

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01 – GENIN-101441-04

Date:

March 1 20004

Re: [REDACTED]
[REDACTED], Inc.

Dear [REDACTED]

This is in response to a letter dated December 1, 2003.

According to the facts provided by your authorized representative, the company captioned above currently has a valid S election. We believe that you did not intend to make the S election and would like to revoke the election retroactively.

Under ' 1362(d)(1)(C) of the Internal Revenue Code, a revocation made during the taxable year and on or before the 15th day of the 3rd month thereof shall be effective on the 1st date of such taxable year, and a revocation made during the taxable year but after such 15th day shall be effective on the 1st day of the following taxable year.

Under ' 1362(d)(1)(D), if the revocation specifies a date for revocation which is on or after the day on which the revocation is made, the revocation shall be effective on and after the date so specified. More specifically under ' 1.1362-2(b)(2)(ii) of the Income Tax Regulations, if a corporation specifies a date for revocation and the date is expressed in terms of a stated day, month, and year that is on or after the date the revocation is filed, the revocation is effective on or after the date so specified.

Therefore, if a revocation of the company-s S election is filed by the end of this year, the revocation can be effective either on the first day of the next year or on the specified date that must be on or after the date the revocation is filed. Relief through the private letter ruling process is not available for an earlier date.

A copy of this letter has been sent to your authorized representative. We hope this information is helpful.

Sincerely,
Dianna K. Miosi
Chief, Branch 1
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)