

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:PSI
GENIN-137295-05
Date:
July 22, 2005

Dear _____ :

This letter responds to your request to revoke an Election under Subchapter S. Based on the information submitted, it appears that you wish to revoke an election that was inadvertently prepared by your former account, signed by the taxpayer, and accepted for the _____ taxable year.

Generally, an election can be terminated either by revocation, by reason of corporation ceasing to be a small business corporation, or by reason of excess passive investment income.

Section 1.1362-2 of the Income Tax Regulations provides that an election made under §1362(a) of the Internal Revenue Code is terminated by revocation if the corporation revokes the election for any taxable year of the corporation for which the election is effective, including the first taxable year. A revocation may be made only with the consent of the shareholders who, at the time the revocation is made, hold more than one-half of the number of issued and outstanding shares of stock of the corporation. Generally, a revocation made during the taxable year and before the 16th day of the 3rd month of the taxable year is effective on the 1st day of the taxable year and a revocation made after the 15th day of the 3rd month of the taxable year is effective for the following taxable year.

If a corporation makes an election to be an S corporation that is to be effective beginning with the next taxable year and revokes its election on or before the 1st day of the next taxable year, the corporation is deemed to have revoked its election on the 1st day of the next taxable year.

Section 1.1362-6(a)(2)(B)(3) addresses the manner of revoking an election. To revoke an election, the corporation files a statement that the corporation revokes the election made under § 1326(a). The statement must be filed with the service center where the election was properly filed. The revocation statement must include the number of shares of stock issued and outstanding at the time the revocation is made. A revocation

may be made only with the consent of shareholders who, at the time the revocation is made, hold more than one-half of the number of issued and outstanding shares of stock of the corporation. Each shareholder who consents to the revocation must consent in the manner required under §1.1362-6(b). In addition, each consent should indicate the number of issued and outstanding shares of stock held by each shareholder at the time of revocation.

If you have proof of filing a valid revocation statement before the 16th day of the 3^d month of your 2003 taxable year, please call the listed contact the person. Otherwise, we are unable to intervene as there is no codified provision for retroactively revoking an election.

Incidentally, the IRS has developed two compact discs (CDs) to help educate small business owners on their tax responsibilities: (1) Publication 3693, *Introduction to Federal Taxes for Small Business/Self-Employed*; and (2) Publication 3700, *Small Business Workshop*. These items are free and can be ordered by calling 1-800-829-3676. An online classroom is available at www.irs.gov/businesses/small.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. 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. If you have any additional questions, please contact our office at (202) 622-3050.

Sincerely,

/s/ Dianna K Miosi

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