

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B1 – GENIN-160628-04

Date:  
June 3 2005

Taxpayer = [REDACTED]

Dear [REDACTED]:

This responds to your letters dated October 26, 2004 and April 12, 2005 in which it was requested that we recognize Taxpayer's election to be an S corporation effective for the 1998 tax year under Rev. Proc. 97-48.

A corporation, which meets the definition of a small business corporation under section 1362(a) of the Internal Revenue Code, may elect to be treated as an S corporation. In order for an S corporation election to be effective for the taxable year in which it is made, it must be made within the first two and one-half months of the corporation's taxable year. Section 1362(b)(2). If an S election is made after that time, then the corporation will not be treated as an S corporation until the taxable year following the one in which the S election was filed. Section 1362(b)(3). An election made after the first two and one-half months of the taxable year in which it is intended to be effective may be treated as effective if the Secretary determines that there was reasonable cause for the corporation's failure to make a timely election. Section 1362(b)(5).

Unfortunately, relief under Rev. Proc. 97-48 is unavailable because the IRS mailed a notice indicating that there was a problem with the S corporation election within six months of the date on which the S corporation timely filed its tax return for the first year that it intended to be an S corporation.

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 procedures for requesting a private letter ruling are set out in Revenue Procedure 2005-1 (copy enclosed). In addition, Rev. Proc. 2005-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$7,000. 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 **\$625**. If you qualify for the reduced fee, you must include a statement certifying your gross income for the last 12-month taxable year. Otherwise, the higher fee will apply.

If you decide to submit a formal request for a private letter ruling, please review Appendix B of Rev. Proc. 2005-1 and be certain to include all required procedural statements. Also include the proper 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

We hope that this information is helpful to you. If you have additional questions, please contact \_\_\_\_\_ at \_\_\_\_\_ (not a toll-free call).

Sincerely,

/s/ Dianna K. Miosi

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

Enclosures (2)  
Announcement 97-4  
Rev. Proc. 2005-1