

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **INFO 2004-0031**

Release Date: 3/31/04

Index Number: 1362.00-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B03 – GENIN-155798-03

Date:

January 13, 2004

Dear [REDACTED]:

We are answering correspondence, submitted on your behalf by Chen-Win Hsu, CPA, requesting relief in order to establish August 4, 2000, as the effective taxable year for your S corporation election. While your 2000 tax return was received on time, automatic late S corporation relief is unavailable under Revenue Procedure 97-48 because the Internal Revenue Service sent you notification of the failure to file Form 2553 within 6 months of receiving your 2000 return. Generally, a taxpayer is notified of acceptance or nonacceptance of its election within three months of date of filing (date mailed). If the IRS questions whether the election was filed, acceptable proof of filing is (a) certified or registered mail receipt; (b) Form 2553 with an accepted stamp; (c) Form 2553 with stamped IRS received date; or (d) an IRS letter stating the election has been accepted. Because you failed to prove timely receipt, we are unable to respond to your request in its current form. However, we are furnishing general information relating to your request.

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 2004-1 (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. 2004-1. 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:3
Room 5016

Incidentally, the IRS has developed two compact discs 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 items are free and can be ordered by calling 1-800-829-3676. The IRS also makes information available to small business taxpayers online at www.irs.gov/businesses/small/index.

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,

/s/

Christine Ellison
Chief, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Announcement 97-4
Rev. Proc. 2004-1