

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 – GENIN-103130-04

Date:

March 17, 2004

Dear [REDACTED]:

We are responding to your request for late S corporation relief. Based on the information submitted, it appears that you are requesting to be treated as an S corporation effective as of January 1, 2001. Your letter asserts that you had submitted an election past the window period for automatic relief under Revenue Procedure 98-55 and now would like to be considered under Revenue Procedure 2003-43. However, the 24 month window provided by Rev. Proc. 2003-43 does not apply to your situation. Further, you are ineligible for automatic relief under Rev. Proc. 97-48 since the Internal Revenue Service notified you about the Form 2553 deficiency within 6 months after receiving your 2001 Form 1120S tax return. Although we are unable to intervene for automatic relief, this letter provides useful 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 2004-1 (copy enclosed). In addition, the user fee for a private letter ruling is \$6,000; however, taxpayers with gross income of less than \$1 million on their most recent 12 month taxable year return, may qualify for a reduced user fee in the amount of \$500. If you qualify for the \$500 fee, your submission package must include a statement indicating that your corporate gross income for the last 12-month taxable year was less than \$1 million.

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 user fee check, and 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

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 yours,

/s/ Dianna K Miosi

DIANNA K. MIOSI
Chief, Branch 1
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Announcement 97-4
Rev. Proc. 2004-1