

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **INFO 2004-0095**

Release Date: 6/30/04

Index Number: 1362.01-03

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B1 – GENIN-115339-04

Date:

June 3, 2004

Taxpayer =

Dear :

This responds to your recent letter in which it was requested that we recognize Taxpayer's election to be an S corporation effective January 1, 2001.

Taxpayer requested relief to file a late S corporation election under Rev. Proc. 98-55, 1998-2 C.B. 645. Rev. Proc. 98-55 was superceded by Rev. Proc. 2003-43, 2003-23 I.R.B. 998, and is no longer authoritative on the issue of late S corporation elections. Rev. Proc. 2003-43, applies to qualified taxpayers requesting relief for a late S corporation election on or after June 19, 2003 or pending with the Service on that date. A taxpayer who has not filed a tax return for the first year in which it intended to be an S corporation must request relief under Rev. Proc. 2003-43 within 6 months of the due date of the taxpayer's first tax return. A taxpayer who has filed a tax return for the first year in which it intended to be an S corporation must request relief under Rev. Proc. 2003-43 within 24 months of the due date of the taxpayer's first tax return. Unfortunately, Taxpayer does not meet these requirements and must request relief for a late S corporation election through a private letter ruling.

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 2004-1 (copy enclosed). In addition, Rev. Proc. 2004-1 requires taxpayers to 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 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. 2004-1, 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,

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

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