

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **INFO 2004-0226**

Release Date: 12/31/04

Index Number: 1362.00-00

Person To Contact:

ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01 – GENIN-154646-04

Date:

Dec 13 2004

Taxpayer = [REDACTED]

Dear [REDACTED]:

We are responding to a letter on behalf of Taxpayer, dated September 19, 2004, requesting a late S election, effective June 2, 2002. Although we are unable to respond to the request as submitted, this letter provides useful information relating to the request.

According to the information provided, Taxpayer intended to be an S corporation, effective June 2, 2002, and filed Form 2553 timely. The Internal Revenue Service denied the election because the Form 2553 filed was incomplete. Taxpayer did not complete the Form and refile it within the time period specified by the Service. Since Taxpayer filed its return for tax year 2002 late, Rev. Proc. 97-48 is unavailable. Further, since Taxpayer requested relief more than 24 months after the original due date of the election, Rev. Proc. 2003-43 is also unavailable. To obtain relief, therefore, the Taxpayer may request a private letter ruling.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late S corporation elections and inadvertent invalid S corporation elections. Generally, to request relief for a late or invalid 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 Rev. Proc. 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 last-filed tax return qualify for a **reduced user fee** in the amount of \$500. If you are eligible to use the reduced fee provision you must include the statement

described in ' (B)(1)(b) of Appendix A with your request. Please review Appendix B for a sample format for requesting a private letter ruling.

If you decide to submit a formal request for a private letter ruling, please include the proper user fee (if applying under the reduced fee provisions, send a statement certifying gross income), and 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

By way of introduction, the IRS has a small business website which provides information and various useful links. Visit this special site at www.irs.gov/smallbiz. Additionally, you can order a single, free copy of the *Small Business Resource Guide* CD-ROM, by calling 1-800-829-3676. The CD-ROM provides critical tax information including forms, instructions, and publications, as well as valuable information from a variety of government agencies, non-profit organizations, and educational institutions.

We hope that the above information proves helpful.

Sincerely yours,

/s/ Dianna K. Miosi

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

Enclosures:

Announcement 97-4
Rev. Proc. 2004-1

cc: