

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B1 – GENIN-121626-04

Date:

Aug 20 2004

Taxpayer = [REDACTED]

Dear [REDACTED]

This responds to your recent letter in which it was requested that we recognize Taxpayer's election to be an S corporation effective November 1, 1996.

Unfortunately, you do not qualify for relief under the provisions of Rev. Proc. 97-48, 1997-2 C.B. 521. Rev. Proc. 97-48 applies to late S corporation elections for entities who intend to be an S corporation, the corporation and its shareholders reported their income consistent with S corporation status for the taxable year the S corporation election should have been made and for every subsequent year, and the corporation did not receive notification from the Service regarding any problem with the S corporation status within six months of the date on which the Form 1120S for the first year was timely filed. The service center's records indicate that a letter notifying you that there was a problem with your S corporation election was sent within six months of the date on which Form 1120S for the first year was filed.

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,

/s/ Dianna K Miosi

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

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