Internal Revenue Service

Number: **INFO 2005-0026** Release Date: 3/31/2005 Index Number: 1362.00-00 Department of the Treasury Washington, DC 20224

Person To Contact:

ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01 - GENIN-117162-04

Date:

May 13 2004

Taxpayer =

Dear

We are responding to your letter on behalf of the Taxpayer, received by Cincinnati Service Center on January 26, 2004, requesting an S election effective January 1, 2003, or January 1, 2004.

According to the information provided, the Taxpayer had an S election effective January 1, 2001, but terminated it on June 10, 2002. Under I.R.C. § 1362(g), the Taxpayer is ineligible for a new S election until the 5th taxable year which begins after the taxable year of the termination. The Taxpayer has not established any reason, under Treas. Reg. § 1.1362-5, justifying the Secretary's consent for a new S election within the prohibition period. Therefore, the Taxpayer is ineligible to make a new S election until 2007.

We hope that the above information proves helpful.

Sincerely yours, /s/ David R. Haglund David R. Haglund Chief, Branch 1 Associate Chief Counsel (Passthroughs and Special Industries)

CC: