Internal Revenue Service

Number: INFO 2005-0041 Release Date: 3/31/2005 Index Number: 1362.01-03 Department of the Treasury Washington, DC 20224

Third Party Communication: None Date of Communication: Not Applicable

Person To Contact: , ID No. Telephone Number:

Refer Reply To: CC:PSI:B01 GENIN-160503-04 Date: February 08, 2005

Taxpayer =

Dear

We are responding to your letter on behalf of Taxpayer, dated August 24, 2004, requesting a late S election, effective January 31, 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 January 31, 2002, but the election was not filed. In this case, Taxpayer is ineligible for relief under Rev. Proc. 2003-43. To obtain relief, 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. 2005-1 (copy enclosed). In addition, Rev. Proc. 2005-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$7,000. 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 \$625. 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 <u>www.irs.gov/smallbiz</u>. 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. 2005-1