

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01 – GENIN-117162-04

Date:

May 13 2004

Taxpayer = [REDACTED]

Dear [REDACTED]:

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: