

Internal Revenue Service

Number: **INFO 2012-0062**

Release Date: 9/28/2012

Index Number: 1362.00-00, 1362.02-00,
1362.02-01

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-126301-12

Date:

July 25, 2012

Re:

Dear :

This letter responds to your letter dated April 30, 2012, submitted on behalf of the above named taxpayer with regard to retroactive revocation of an S election. According to the facts submitted, the company captioned above currently has a valid S election. We believe that you would like to revoke the election retroactive to its effective date. Although we are unable to respond to your request as submitted, this letter provides information relating to your request.

Section 1362(d)(1) of the Internal Revenue Code provides that an election to be an S corporation under § 1362(a) may be terminated by revocation. This election may be revoked only if the shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made consent to the revocation.

Under § 1362(d)(1)(C), a revocation made during the taxable year and on or before the 15th day of the 3rd month thereof shall be effective on the 1st day of such taxable year, and a revocation made during the taxable year but after such 15th day shall be effective on the 1st day of the following taxable year.

Under § 1362(d)(1)(D), if the revocation specifies a date for revocation which is on or after the day on which the revocation is made, the revocation shall be effective on and after the date so specified. More specifically, under § 1.1362-2(a)(2)(ii) of the Income Tax Regulations, if a corporation specifies a date for revocation and the date is expressed in terms of a stated day, month, and year that is on or after the date the revocation is filed, the revocation is effective on and after the date so specified.

Therefore, if a revocation of the company's S election is filed by the end of this year, the revocation can be effective either on the first day of the next year or on the specified date that must be on or after the date the revocation is filed.

With respect to the request to retroactively revoke the S election to its effective date, there is currently no provision which allows such action. Relief through the private letter ruling process is not available for an earlier date.

Please keep this letter with your tax records. We hope this information is helpful. If you have any further questions, please contact us at (not a toll-free number).

Sincerely,

Laura C.. Fields

Laura C. Fields

Senior Technician Reviewer, Branch 1

Office of Associate Chief Counsel

(Passthroughs and Special Industries)