

INTERNAL REVENUE SERVICE



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We are responding to your correspondence, requesting information relating to situations where taxpayers wish to revoke their subchapter S corporation elections. The information submitted explains the taxpayers have valid S corporation elections, have improperly filed their tax returns using Forms 1120 since inception, and have subsequently received requests for amended returns.

Pursuant to § 1.1362-6(a)(3) of the Income Tax Regulations, in order to revoke an S corporation election, the corporation files a statement that the corporation revokes the election made under § 1362(a) of the Internal Revenue Code. This statement must be filed with the service center where the election was properly filed and must include the number of shares of stock issued and outstanding at the time the revocation is made. A revocation may be made only with the consent of shareholders who, at the time the revocation is made, hold more than one-half of the number of issued and outstanding shares of stock of the corporation. Each shareholder who consents to the revocation must consent in the manner required under § 1.1362-6(b).

Under § 1.1362-2(a)(2), an election revoked during the taxable year and before the 16<sup>th</sup> day of the third month of the taxable year is effective on the first day of the taxable year and a revocation made after the 15<sup>th</sup> day of the third month of the taxable year is effective for the following taxable year. Neither the Internal Revenue Code nor the Income Tax Regulations provides us with an option for considering late revocations.

We hope that the above general information proves helpful.

Sincerely yours,

**/s/ Dianna K. Miosi**  
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