

Internal Revenue Service

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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:ITA:B04

PLR-141362-05

Date:

September 29, 2005

X =

Date 1 =

Date 2 =

Date 3 =

Dear

This letter ruling is in reference to X's request that its Form 1128, Application to Adopt, Change, or Retain a Tax Year, be considered timely filed under the authority contained in § 301.9100-3 of the Procedure and Administrative Regulations. X is requesting permission to change its accounting period, for federal income tax purposes, from a taxable year ending on Date 1, to one ending Date 2, effective Date 3.

The information submitted indicates that X filed a timely Form 2553, Election by a Small Business Corporation. However, based on advice given X by its tax professional, X did not attach Form 1128 with the Form 2553. Due to an error or misunderstanding on the part of the tax professional, the Form 1128 was not timely filed.

Section 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2 (automatic extensions), such as the instant case, must be made under the rules of § 301.9100-3. Requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government.

Based on the facts and information submitted and the representations made, we have concluded that X has acted reasonably and in good faith in respect to this matter. Furthermore, we have determined that the granting of relief in this case will not prejudice the interests of the government within the intendment of § 301.9100-3(c). Accordingly the requirements of §301.9100-3 for the granting of relief have been satisfied, and X's late filed Form 1128 requesting permission to change from a tax year ending on Date 1, to one ending on Date 2, effective Date 3, is considered timely filed.

The ruling contained in this letter is based upon facts and representations submitted by X and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as part of an examination process.

This ruling addresses the granting of § 301.9100-3 relief only. No opinion is expressed or implied regarding the tax treatment of the instant transaction under the provisions of any other section of the Internal Revenue Code or Income Tax Regulations that may be applicable thereto, or regarding the tax treatment of any conditions existing at the time of, or effects resulting from, the instant transaction. Specifically, no opinion is expressed or implied as to whether X is permitted under the Code and the applicable regulations to change to the tax year requested in the subject Form 1128.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent. Enclosed is a copy of the letter ruling showing the deletions proposed to be made in the letter when it is disclosed under § 6110.

In accordance with the provisions of a power of attorney currently on file, we are sending a copy of this letter to the taxpayer's authorized representative.

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure