

**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:B05  
PLR-130870-06

Date:  
September 20, 2006

Taxpayers =

Year =

Dear:

This ruling is in reference to the taxpayers' request that their Form 1128, "Application To Adopt, Change, or Retain a Tax Year," be considered timely filed under the authority in § 301.9100-3 of the Regulations on Procedures and Administration. Taxpayers filed a late Form 1128 to change their accounting period, for federal income tax purposes, from a taxable year ending November 30, to a taxable year ending December 31, effective December 31, Year.

Rev. Proc. 2002-37, 2002-1 C.B. 1030, provides procedures for certain corporations to obtain automatic approval to change their annual accounting period under § 442 of the Internal Revenue Code. A corporation complying with all the applicable provisions of this revenue procedure has obtained the consent of the Commissioner of the Internal Revenue Service to change its annual accounting period. Section 7.01(2) of Rev. Proc. 2002-37 provides that a Form 1128 filed pursuant to the revenue procedure will be considered timely filed for purposes of § 1.442-1(b)(1) only if it is filed on or before the time (including extensions) for filing the return for the short period required to effect such change.

The information furnished indicates that the taxpayers did not file their Form 1128 by the due date of the return for the short period required to effect such change. However, the taxpayers requested an extension of time to file their Form 1128 under § 301.9100-3 soon thereafter.

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. Request 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 interest of the government.

Based on the facts and information submitted and the representations made, we conclude that Taxpayers have acted reasonably and in good faith, and that the granting of relief will not prejudice the interest of the government. Accordingly, Taxpayers have satisfied the requirements of the regulations for the granting of relief, and Taxpayers late filed Form 1128 requesting to change to December 31, effective December 31, Year, is considered timely filed.

Because a change in period under Rev. Proc. 2002-37 is under the jurisdiction of the Director, Internal Revenue Service Center, where the taxpayers' returns are filed, we have forwarded the application to the Director, Service Center. Any further communication regarding this matter should be directed to the Service Center.

This ruling is based upon facts and representations submitted by the taxpayers 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. However, as part of an examination process, the Service may verify the factual information, representations, and other data submitted.

This ruling addresses the granting of § 301.9100-3 relief only. We express no opinion regarding the tax treatment of the instant transaction under the provisions of any other section of the code or the regulations that may be applicable, or regarding the tax treatment of any conditions existing at the time of, or effects resulting from, the instant transaction. Specifically, we express no opinion as to whether the taxpayers are permitted under the Code and applicable regulations to change to the tax year requested in the Form 1128, or whether the change may be effected under Rev. Proc. 2002-37.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) of the Code 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 when it is disclosed under § 6110.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely yours,

George F. Wright  
Senior Technician Reviewer, Branch 5  
(Income Tax & Accounting)  
Office of Chief Counsel