

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B04
PLR-138096-07

Date:
November 08, 2007

Legend:

Year =

Dear :

This letter ruling refers to a request that your 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 Procedure and Administration. You filed a late Form 1128 to change your accounting period, for federal income tax purposes, from a taxable year ending May 31, to a taxable year ending December 31, effective December 31, Year.

Rev. Proc. 2003-62, 2003-2 C.B. 299, provides procedures for individuals to obtain automatic approval to change their annual accounting period to a calendar year under § 442 of the Internal Revenue Code. An individual complying with all of the applicable provisions of this revenue procedure has obtained the consent of the Commissioner of the Internal Revenue Service to change an annual accounting period. Section 7.02(2) of Rev. Proc. 2003-62 provides that a Form 1128 filed pursuant to the revenue procedure will be considered timely filed for purposes of § 1.442-1(b)(1) of the Income Tax Regulations only if it is filed on or before the due date (including extensions) for filing the federal income tax return for the short period required to effect such change.

The information furnished indicates that you did not file your Form 1128 by the due date of the return for the short period required to effect the change. You requested an extension of time to file your Form 1128 under § 301.9100-3 shortly after the required time for filing the return.

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 conclude that you have acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government. Accordingly, you have satisfied the requirements of the regulations for the granting of relief, and your late filed Form 1128 requesting to change to December 31, effective December 31, Year, is considered timely filed.

Because a change in accounting period under Rev. Proc. 2003-62 is under the jurisdiction of the Director, Internal Revenue Service Center, where your returns are filed, we have forwarded your Form 1128 along with a copy of this letter to the Director, Internal Revenue Service Center, Attention: ENTITY CONTROL, where you filed your return. See § 7.02(1) of Rev. Proc. 2003-62.

This ruling is based upon facts and representations that you submitted, accompanied by a penalty of perjury statement. 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 sections of the Code or 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 you 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. 2003-62.

This ruling is directed only to the taxpayers that requested 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,

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