

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:B5
PLR-153540-07
Date:
February 25, 2008

In Re:

Dear _____ :

This letter responds to your letter dated November 28, 2007, submitted on behalf of the above-named taxpayer requesting an extension of time to file a Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, under § 301.9100-3 of the Income Tax Regulations.

The taxpayer represents that it intended to file a Form 1128, requesting permission to change its annual accounting period, for federal income tax purposes, from a taxable year ending December 31, to a taxable year ending June 30, effective for the tax year beginning January 1, 2007, and ending June 30, 2007. The taxpayer's Form 1128 requesting such change was due on or before September 15, 2007, but was not timely filed. However, the form and the request for discretionary administrative relief were filed within 90 days of such due date. The information furnished shows that the taxpayer intended to make the change and to file Form 1128 on a timely basis, but inadvertently missed the due date. The error was not due to any lack of due diligence or prompt action on the part of the taxpayer.

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, it is held that the taxpayer has acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government. Accordingly, the requirements of the regulations for the granting of relief have been satisfied in this case, and taxpayer's late-filed Form 1128 requesting permission to change to a tax year ending June 30, effective for the tax year beginning January 1, 2007, and ending June 30, 2007, is considered timely filed.

Within 45 days of the date of this ruling, the taxpayer must file a Form 1128 with the Commissioner in such manner as provided in administrative procedures published by the Commissioner. A copy of this letter ruling should accompany such submission, and the taxpayer should type or print at the top of the form: "Filed Under Section 301.9100-3 of the Regulations." If the taxpayer is filing a Form 1128 under the automatic consent procedures of Rev. Proc. 2006-45, 2006-45 I.R.B. 851, the taxpayer must also file a federal income tax return for the short period necessary to effect the change within 45 days of the date of this ruling. A copy of this ruling should be attached to that return.

The ruling contained in this letter is based upon facts and representations furnished by the taxpayer, and is limited to the filing of Form 1128. Except as specifically addressed herein, no opinion is expressed regarding the tax treatment of the subject transaction under the provisions of any other sections of the Internal Revenue Code or Income Tax Regulations that may be applicable thereto. This office has not verified any of the material submitted in support of the requested ruling; verification of factual information, representations, and other data is within the examination jurisdiction of the taxpayer's IRS Industry Director.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

Sincerely yours,

/s/ George F. Wright

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

Enclosures:

Copy of this letter
Copy for § 6110 purposes