

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-150097-08
Date:
April 22, 2009

Dear

This is in reference to a Form 1128, *Application To Adopt, Change, or Retain a Tax Year*, filed on behalf of (the "taxpayers"), requesting permission to change their taxable year, for federal income tax purposes, from

, to , effective for the taxable year beginning , and ending . The taxpayers have requested that the Form 1128 be considered timely filed under the authority contained in section 301.9100-3 of the Procedure and Administration Regulations.

The taxpayer's Form 1128 requesting the change described above was due on or before , but was not timely filed. Information furnished indicates that the taxpayers' failure to change in a timely manner was due to intervening events beyond the taxpayers' control, and was not due to any lack of due diligence or prompt action on the part of the taxpayers or their representatives.

Section 1.442-1(b) of the Income Tax Regulations provides that in order to secure the Commissioner's consent to adopt, change, or retain an annual accounting period, the taxpayer must file an application on Form 1128 with the Commissioner within such time and in such manner as is provided in administrative procedures published by the Commissioner. The general procedures for taxpayers to establish a business purpose and obtain the Commissioner's approval to adopt, change, or retain an annual accounting period, for federal income tax purposes, are set forth in Rev. Proc. 2002-39, 2002-1 C.B. 1046. Corporations that are within the scope of Rev. Proc. 2006-45, 2006-45 I.R.B. 851, may obtain automatic approval to adopt, change to, or retain certain annual accounting periods under procedures set forth in that revenue procedure. The applicable administrative procedure in the instant case is Rev. Proc. 2002-39.

Section 301.9100-3(a) of the regulations provides that requests for extensions of time for regulatory elections that do not meet the requirements of section 301.9100-2 (automatic extensions), such as the instant case, must be made under the rules of section 301.9100-3. Requests for relief subject to section 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 _____, effective for the taxable year beginning _____, is considered timely filed.

Since the separate "user fee" required to process the taxpayer's Form 1128 has been paid, we will begin processing the taxpayer's application immediately.

The ruling contained in this letter is based upon facts and representations furnished by the taxpayers, and is limited to the filing of Form 1128. Except as specifically addressed herein, no opinion is expressed as to whether the taxpayer qualifies for the automatic consent procedure or 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.

Copies of this letter ruling are being provided to the taxpayer's authorized representative.

This ruling is directed only to the taxpayers 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/ William A. Jackson

William A. Jackson
Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures:

Copy of this letter

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