

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
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Telephone Number:

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Date:
June 10, 2009

EIN:

Legend:

Taxpayer:

Dear :

This is in reply to your letter ruling request submitted on behalf of Taxpayer pursuant to §§ 301.9001-3 of the Procedure and Administration Regulations and 1.444-1T of the Temporary Income Tax Regulations. The Taxpayer has requested that a Form 8716, electing to use a 52-53-week taxable year ending on the , effective for the taxable year ending , be considered timely filed under the authority contained in § 301.9100-3 of the Procedure and Administration Regulations.

The Taxpayer's Form 8716, *Election To Have a Tax Year Other Than a Required Tax Year*, requesting to use such a taxable year, was due on or before , but was not timely filed. The information furnished indicates that the Taxpayer intended to make the election in a timely manner, but that due to an error or misunderstanding, the form was not timely filed. 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) of the regulations 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.

The Taxpayer should file its Form 8716 electing to use a tax year ending _____, effective for its first taxable year ending _____, with its appropriate IRS service center (Attn: Entity Control), within 45 days of the date of this ruling. A copy of this ruling should be attached to the Form 8716, and the Taxpayer should type or print at the top of the form: "Filed Under § 301.9100-3 of the Regulations."

This ruling is further conditioned on Taxpayer complying with section 1.7519-1T(a)(2) of the regulations, which provides, in relevant part, that for each taxable year that a partnership has an election under section 444 in effect, the partnership must (i) file a return as provided in section 1.7519-2T(a)(2), and (ii) make any required payment as provided in section 1.7519-2T.

The ruling contained in this letter is based upon facts and representations furnished by the Taxpayer and is limited to the filing of Form 8716. Except as specifically addressed herein, no opinion is expressed as to whether the Taxpayer qualified for the election to have a tax year other than the required year or regarding the tax treatment of the subject transaction under the provisions of any other section of the Internal Revenue Code or Income Tax Regulations that may be applicable thereto. This office has not verified any of the materials 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/ William A. Jackson

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

Enclosures:

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