

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-113685-09

Date:

August 24, 2009

Legend:

Taxpayer:

Year 1:

Year 2:

Date 1:

Date 2:

Date 3:

Dear _____ :

This is in reference to a Form 1128, *Application to Adopt, Change or Retain a Tax Year*, submitted on behalf of the above-named taxpayer, requesting permission to change its accounting period, for federal income tax purposes, from a taxable year ending Date 1, to a taxable year ending Date 2, effective Date 2, Year 1. The taxpayer has requested that the Form 1128 be considered timely filed under the authority contained in 301.9100-3 of the Procedure and Administration Regulations.

The taxpayer's Form 1128, requesting a change in accounting period to a tax year ending Date 2, was due on or before Date 3, Year 2, but was not timely filed. The information furnished indicates that the taxpayer intended to make the change 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, and the taxpayer's late-filed Form 1128 requesting permission to change to a tax year ending Date 2, effective for the tax year ending Date 2, Year 1, will be considered timely filed.

A copy of this letter ruling, taxpayer's Form 1128, and other relevant documents are being forwarded to the service center where the taxpayer files its federal income tax returns, with instructions that the Form 1128 be considered timely filed, and processed in accordance with established procedures under Rev. Proc. 2006-45.

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 as to whether the taxpayer qualified for the automatic consent procedure 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.

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

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:

- Copy for section 6110 purposes
- Copy of this letter ruling