

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B05
PLR-147484-09
Date: April 21, 2010

In Re:

EIN:

Legend:
Taxpayer:
Year 1:
Year 2:
Date 1:
Date 2:
Date 3:

Dear :

This ruling letter is in reference to Taxpayer's request that its Form 1128, Application to Adopt, Change, or Retain a Tax Year, be considered timely filed under the authority contained in § 301.9100-3 of the Procedure and Administration Regulations.

Taxpayer seeks to change its taxable year for federal income tax purposes from a taxable year ending Date 1, to a taxable year ending Date 2, effective Date 2, Year 1. Taxpayer's Form 1128, requesting a change in accounting period, was due on or before the extended due date, Date 3, Year 2, but was not timely filed. Taxpayer states that if it had timely filed its Form 1128, it would qualify to effect the change in accounting period under the automatic consent procedures of Rev. Proc. 2006-45, 2006-2 C.B. 851, as modified and clarified by Rev. Proc. 2007-64, 2007-2 C.B. 818. The information furnished indicates that Taxpayer intended to make the change in a timely manner, but that due to an error on the part of Taxpayer's representative, the form was not timely filed.

Section 301.9100-1(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, we conclude that Taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government. 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 if it is filed with the appropriate Internal Revenue Service office within 60 days of the date of this letter. Please submit the Form 1128, together with a copy of this letter, to Director, Internal Revenue Service Center, Attention: ENTITY CONTROL, where Taxpayer files its federal income tax return.

CAVEATS

The ruling contained in this letter is based upon facts, representations, and affidavits furnished by Taxpayer. This office has not verified any of the materials submitted in support of the requested ruling. The materials are subject to verification on examination.

This ruling addresses the granting of § 301.9100-3 relief only. No opinion is expressed or implied as to whether Taxpayer is permitted under the Internal Revenue Code or the applicable regulations to change to the tax year it requested in its Form 1128 or whether Taxpayer can make the change under Rev. Proc. 2006-45.

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

Copies of this letter ruling are being provided to Taxpayer's authorized representatives.

Sincerely,

Amy J. Pfalzgraf
Senior Counsel, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)