

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

Index Number: 9100.09-00

, ID No.
Telephone Number:

Attention: ,

Refer Reply To:
CC:ITA:B05
PLR-149287-11
Date:
March 12, 2012

Taxpayer Identification Number:

Dear :

In a letter dated October 7, 2011, the taxpayer named above, through its authorized representative, requested a private letter ruling under Rev. Proc. 2011-1, 2011-1 C.B. 1. Taxpayer, a C corporation, requested a ruling that its Form 1128, Application to Adopt, Change, or Retain a Tax Year, be considered timely filed under § 301.9100-3 of the Procedures and Administration Regulations.

On the submitted Form 1128, taxpayer requests the Commissioner's automatic approval to change its annual accounting period for federal income tax purposes, from a year ending to a year ending on , effective for the taxable year beginning , and ending . Taxpayer's Form 1128 was due on or before . Due to a clerical error, taxpayer did not file the Form 1128 timely. Taxpayer represents that, had it timely filed the Form 1128, it would be subject to the automatic consent procedures of Rev. Proc. 2006-45, 2006-2 C.B. 851. Taxpayer submitted the request for discretionary administrative relief, as well as the Form 1128, within 90 days from the due date.

Section 1.442-1(b) of the Income Tax Regulations provides that, in order to secure the consent of the Commissioner of the Internal Revenue to a change in annual accounting period, a taxpayer must file an application (generally on Form 1128) with the Commissioner within such time and in such manner as is provided in administrative procedures published by the Commissioner. Revenue Procedure 2006-45, as modified and clarified by Rev. Proc. 2007-64, 2007-2 C.B. 818, provides the exclusive procedures whereby certain corporations may obtain automatic consent to change their accounting periods. Section 7.02(2)(a) of Rev. Proc. 2006-45 provides that a Form 1128 filed pursuant to the revenue procedure is considered timely filed for purposes of

§ 1.442-1(b)(1) only if it is filed on or before the time (including extensions) for filing the return for the short period required to effect the change.

Requests for extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2 (automatic extensions), such as in the instant case, must be made under the rules of § 301.9100-3. See § 301.9100-3(a). Requests for relief subject to § 301.9100-3 is granted when the taxpayer provides evidence establish that the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government. See id.

Based on the information submitted and the representations made, we hold that taxpayer has acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government. The requirements of § 301.9100-3 have been satisfied in this case. Accordingly, taxpayer's Form 1128 requesting a change to a taxable year ending _____, effective for the short taxable year beginning _____, and ending _____, is considered timely filed.

We are forwarding a copy of this letter ruling and taxpayer's Form 1128 to the _____ Service Center, 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 on information and representations furnished by taxpayer. This office has not verified any of the taxpayer's representations or the material submitted in support of the request for rulings. As part of an examination process, the Service may verify the information, representations and other data submitted.

This letter ruling addresses the grant of relief under § 301.9100-3 only. We express no opinion on the tax treatment of the instant transaction under any provision of the Code or the regulations that may be applicable. Specifically, we express no opinion as to whether taxpayer may, under the Code and application regulations, change to the taxable year requested in the Form 1128, or whether the change may be effected 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.

In accordance with the Power of Attorney on file with this office, copies of this letter are being sent to taxpayer's authorized representatives.

Sincerely,

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

Enclosures

Copy of this letter
Copy for § 6110 purposes

cc: