INTERNAL REVENUE SERVICE
Index Nos.: 9100.09-00

200003050

CC:DOM:IT&A:B9-PLR-111158-99

Attn:

October 20, 1999

EIN:

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 to a taxable year ending , effective . 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 timely filed its federal income tax return. However, the information furnished indicates that due to an error or misunderstanding, the Form 1128 was not timely filed.

Section 1.442-1(b) of the Income Tax Regulations provides that in order to secure the Commissioner's consent to a change in accounting period, the taxpayer must file an application on Form 1128 with the Commissioner on or before the 15th day of the second calendar month following the close of the short period. Section 7.02 of Rev. Proc. 92-13, 1992-1 C.B. 665 states, in part, that a Form 1128 filed pursuant to this revenue procedure will be considered timely filed for purposes of § 1.442-1 (b)(1) if and only if, it is filed on or before the time (including extensions) for filing the return for the short period required by such change.

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.

270

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 , is considered timely filed.

The ruling contained in this letter is based upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as part of an examination process.

This ruling addresses the granting of § 301.9100-3 relief only. No opinion is expressed regarding the tax treatment of the instant transaction under the provisions of any other sections of the Code or regulations that may be applicable thereto, or regarding the tax treatment of any conditions existing at the time of, or effects resulting from, the instant transaction. Specifically, no opinion is expressed as to whether the taxpayer is permitted under the Code and applicable regulations to change to the tax year requested in the subject Form 1128.

A copy of this letter ruling and taxpayer's Form 1128 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. 92-13.

In accordance with the provisions of a power of attorney currently on file, we are sending a copy of this letter ruling to the taxpayer's authorized representatives.

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

Sincerely yours,

Assistant Chief Counsel
(Income Tax and Accounting)

/s/ Richard L. Carlisle

By _____
Richard L. Carlisle
Acting Deputy Assistant Chief Counsel

271