

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200401001**
Release Date: 1/2/04
Index Number: 9100.03-11

Person To Contact:

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Telephone Number:

In Re:

Refer Reply To:

CC:ITA:5-PLR-134421-03

Date:

September 22, 2003

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 December 31, to a taxable year ending September 30, effective September 30, 2002. The taxpayer has requested that the Form 1128 be considered timely filed under the authority contained in section 301.9100-3 of the Procedure and Administration Regulations.

Section 6.02(1) of Rev. Proc. 2002-39, 2002-22 I.R.B. 1046, provides that a taxpayer must file a Form 1128 no earlier than the day following the end of the first effective year and no later than the due date (not including extensions) of the federal income tax return for the first effective tax year. Thus, the taxpayer's Form 1128 requesting a change in accounting period to a tax year ending September 30 was due December 15, 2003. The information furnished indicates that the application for the change in accounting period was filed late because of an error or misunderstanding. However, this application for section 301.9100-3 relief was filed on March 10, 2003, and thus within 90 days of the return's due date.

Section 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of section 301.9100-2 (automatic extensions), such as the present situation, must be made under the rules of section 301.9100-3. Requests for relief subject to section 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 from a taxable year ending December 31, to a taxable year ending September 30, effective September 30, 2002, 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 section 301.9100-3 relief only. No opinion is expressed or implied concerning the tax consequences of any other matter. Specifically, no opinion is expressed as to whether the taxpayer is permitted under the Internal Revenue Code and applicable regulations to change to the tax year requested in the subject Form 1128.

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

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 representative.

Sincerely yours,

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

Enclosures:

Copy of this letter
Copy for section 6110 purposes

