

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-112953-05

Date:

December 16, 2005

Legend:

Taxpayer =

Date 1 =

Date 2 =

Date 3 =

Dear :

This letter ruling is in reference to a Form 1128, Application To Adopt, Change, or Retain a Tax Year, submitted on behalf of Taxpayer. Taxpayer is 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 3. Taxpayer has requested that the Form 1128 be considered timely filed under the authority contained in § 301.9100-3 of the Procedure and Administrative Regulations.

Section 301.9100-3(a) provides that 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. 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 interest of the government.

Section 301.9100-3(c)(3) provides that the interest of the government are deemed to be prejudiced except in unusual and compelling circumstances if an election is an accounting period regulation election (other than the election to use the required taxable

year under § 444) and the request for relief is filed more than 90 days after the due date for filing the Form 1128.

Based on the facts and information submitted and the representations made, we conclude that Taxpayer has acted reasonably and in good faith. We further conclude that Taxpayer has shown unusual and compelling circumstances 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, and Taxpayer's late filed Form 1128 requesting permission to change from a tax year ending on Date 1, to one ending on Date 2, effective Date 3, is considered timely filed.

The ruling contained in this letter is based upon the facts and representations submitted by 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 or implied regarding the tax treatment of the instant transaction under the provisions of any other section 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 or implied as to whether Taxpayer is permitted under the 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. Enclosed is a copy of the letter ruling showing the deletions proposed to be made in the letter when it is disclosed under § 6110.

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

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

Enclosures:

Copy of this letter
Copy for section 6110 purposes

cc: