

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:ITA:5 - PLR-154455-01

Date:

January 29, 2002

Attn:

Dear _____ :

This is in reference to Form 1128, Application to Adopt, Change, or Retain a Tax Year, submitted on behalf of the above-named taxpayer. The taxpayer is requesting permission to change its accounting period, for federal income tax purposes, from a taxable year ending December 31 to a taxable year ending March 31, effective for the tax year ending on March 31, 2001. 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.

The taxpayer's Form 1128 requesting a change in accounting period was due on or before June 15, 2001. Information furnished indicates that the taxpayer intended to file a timely Form 1128 under the automatic provisions of Rev. Proc. 2000-11, 2000-3 I.R.B. 309, but due to an error or misunderstanding, the form was not filed timely. However, the taxpayer filed the form within 90 days of the due date.

Section 1.442-1(a) of the Income Tax Regulations provides that a taxpayer must obtain prior approval from the Commissioner if the taxpayer wishes to change the taxpayer's annual accounting period and adopt a new taxable year.

Section 1.442-1(b) of the 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.

Rev. Proc. 2000-11 provides procedures by which certain corporations may obtain automatic approval to change their annual accounting periods. Section 6.01(2) of Rev. Proc. 2000-11 states, in part, that a Form 1128 filed pursuant to this revenue procedure will be considered timely filed for purposes of section 1.442-1(b)(1) if it is filed on or before the time (including extensions) for filing the return for a short period required by such change.

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) must be made under the rules of section 301.9100-3. Requests for relief

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subject to section 301.9100-3 will be granted when the taxpayer provides the evidence to establish that the taxpayer acted reasonably and in good faith, and granting 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 acted reasonably and in good faith, and the granting of relief will not prejudice the interests of the government. Therefore, the requirements of the regulations for the granting of relief have been satisfied in this case, and the late filed Form 1128 requesting permission to change to a tax year ending March 31, effective for the tax year ending on March 31, 2001, 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 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 the 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. 2000-11.

This ruling is directed only to the taxpayer requesting 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, a copy of this letter is being sent to the taxpayer's authorized representative.

Sincerely,
J. Charles Strickland
Senior Technician Reviewer
Office of Chief Counsel
(Income Tax and Accounting)

Enclosures (2):

Copy of this letter
Copy for section 6110 purposes