

INTERNAL REVENUE SERVICE

Number: **200107006**

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CC:ITA:B9/PLR-113153-00

November 21, 2000

Dear _____ :

This is in reference to a request that a Form 1128, Application to Adopt, Change, or Retain a Tax Year, be considered timely filed under the authority contained in § 301.9100-3 of the Procedure and Administration Regulations. The taxpayer requests permission to change its accounting period, for federal income tax purposes, from a taxable year ending _____, to a taxable year ending _____, effective _____.

The taxpayer failed to timely file a Form 1128 to change its tax year under the automatic provisions of Rev. Proc. 2000-11, 2000-3 I.R.B. 309.

This ruling letter is based upon a representation by the taxpayer that it is not using hindsight, as defined in § 301.9100-3(b)(3)(iii) in requesting relief.

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 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 § 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.

Based on the facts and information submitted and the representations made, it is held that the taxpayer 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 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.

The taxpayer is instructed to file the Form 1128 with this ruling letter with the service center where the taxpayer files its federal income tax returns in order to effect the proposed change in accounting period under Rev. Proc. 2000-11. The taxpayer must make this filing within 30 days from the date of this letter.

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.

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,
Associate Chief Counsel
(Income Tax and Accounting)
By /s/ Heather Maloy

Enclosures:

Copy of this letter
Copy for § 6110 purposes