

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202419014**
Release Date: 5/10/2024
Index Number: 9100.00-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B08
PLR-119893-23

Date:
February 14, 2024

LEGEND

Taxpayer	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=
Date 5	=
Year	=
Current Year End	=
Proposed Year End	=

Dear :

This ruling responds to Taxpayer’s request for a letter ruling dated Date 1. Specifically, Taxpayer requests an extension of time under section 301.9100-3 of the Income Tax Regulations to file Form 1128, *Application to Adopt, Change, or Retain a Tax Year*. Taxpayer is requesting to change its accounting period for federal income tax purposes from a taxable year ending Current Year End to a taxable year ending Proposed Year End, effective Year.

FACTS

According to the affidavits and additional information provided to us, Taxpayer has represented that the facts are as follows. Taxpayer is a domestic corporation and uses the accrual method of accounting. Taxpayer had previously filed federal income tax returns as an S Corporation. On Date 2, 100% of its stock was purchased from the sole shareholder by a foreign corporation, and consequently, the S election was immediately terminated. A final 1120S was filed through this date.

The new shareholder filed Form 1128 to change the year end from Current Year End to Proposed Year End. A timely filed Form 1120 was filed for the short year Date 4 to Date 5. The Form 1128 was signed on Date 3, but due to an administrative error by the taxpayer, it was not mailed on a timely basis. Once the error was discovered, Taxpayer mailed Form 1128 immediately and it was received prior to 90 days after the required due date.

LAW AND ANALYSIS

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 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.

Sections 301.9100-1 through 301.9100-3 provide the standards that the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-3(a) provides that requests for extensions of time for regulatory elections (other than automatic extensions covered in section 301.9100-2) will be granted when the taxpayer provides evidence (including affidavits) to establish that the taxpayer acted reasonably and in good faith and the grant of relief will not prejudice the interests of the government.

Section 301.9100-3(c)(3) provides that the interests of the government are deemed to be prejudiced except in unusual and compelling circumstances if an election is an accounting period regulatory election (other than the election to use the required taxable year under section 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 acted reasonably and in good faith and that the granting of relief will not prejudice the interests of the government. Accordingly, Taxpayer has satisfied the requirements of the regulations for the granting of relief. Taxpayer's Form 1128 requesting permission to change to a taxable year ending Proposed Year End, effective

Year, must be filed under the provisions of Rev. Proc. 2002-39 within 45 days of this letter. A copy of this letter must be attached to Taxpayer's Form 1128.

Please note that a user fee is required for an application filed under Rev. Proc. 2002-39. The user fee is outlined in Rev. Proc. 2024-1, 2024-1 I.R.B. 1.

This ruling is based upon 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. However, as part of an examination process, the Service may verify the factual information, representations, and other data submitted.

This ruling addresses the granting of § 301.9100-3 relief only. We express no opinion regarding the tax treatment of this 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, we express no opinion as to whether the Code and applicable regulations or Rev. Proc. 2002-39 permit the taxpayer to change to the tax year requested in the subject Form 1128.

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 Powers of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Erika C. Reigle
Senior Technician Reviewer, Branch 8
Office of Associate Chief Counsel
(Income Tax and Accounting)

cc: