

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:B04
PLR-121255-15

Date:
October 21, 2015

Legend

Taxpayer =

Dear :

This ruling is in reference to Taxpayer's Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, requesting permission to change its accounting period from a taxable year ending June 30 to a taxable year ending December 31, effective December 31, 2014. Taxpayer has requested that the Form 1128 be considered timely filed under the authority contained in § 301.9100-3 of the Procedure and Administration Regulations.

Taxpayer, a domestic corporation, is currently on a taxable year ending June 30, consistent with its majority owner. Taxpayer proposes changing its taxable year to end December 31 for a better matching of its annual revenue and expenses. However, Taxpayer's final decision to change its tax year end had not been made by the due date of the short period ending December 31 Year, owing to the newness of the entity and certain administrative details and approvals from its shareholders. Thus, Taxpayer filed the Form 1128 after the due date of the return for the short period (including extensions). Further, Taxpayer did not file its federal income tax return for the short period by the due date of the return, nor did Taxpayer request an extension of time to file its return for the short period. Accordingly, Taxpayer is requesting 9100 relief. Taxpayer's 9100 relief was filed within 90 days of the original return due date and before the failure to make the regulatory election was discovered by the Service. Taxpayer also states that if it had timely filed its Form 1128, it would have qualified to effectuate the change in accounting period under the automatic consent procedures of Rev. Proc. 2006-45, 2006-2 C.B. 851.

Section 1.442-1(b) of the Income Tax Regulations provides that in order to secure the Commissioner's consent to a change in annual accounting period, the taxpayer must file an application on Form 1128 with the Commissioner within such time and in such manner as is provided in administrative procedures published by the Commissioner.

Rev. Proc. 2006-45 provides the exclusive procedures for certain corporations to obtain automatic approval to change their annual accounting period under § 442 of the Internal Revenue Code and § 1.442-1(b) of the Regulations. Section 7.02(2)(a) of Rev. Proc. 2006-45 provides that the Form 1128 must be filed no earlier than the day following the end of the first effective year and no later than the due date (including extensions) for filing the federal income tax return for the first effective year.

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. Request 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, we conclude that Taxpayer has acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government. Accordingly, Taxpayer's late filed Form 1128 requesting permission to change from a tax year ending June 30, to a tax year ending December 31, effective December 31, 2014, will be deemed timely filed if it is filed with the appropriate Internal Revenue Service office within 60 days of the date of this letter.

Because a change in accounting period under Rev. Proc. 2006-45 is under the jurisdiction of the Director, Internal Revenue Service Center, where the taxpayer's returns are filed, we return your application so that you may forward it along with a copy of this letter to the Director. Any further communication regarding this matter should be directed to the Service Center.

This ruling is based upon the facts, representations, and affidavits that were 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. This ruling expresses no opinion as to whether Taxpayer is permitted under the Code and the applicable regulations to change to the tax year it requested in its Form 1128 or whether Taxpayer can make the change under Rev. Proc. 2006-45.

A copy of this letter ruling must be attached to the taxpayer's income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

This ruling is directed only to the taxpayer that requested 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, we are sending a copy of this letter to your authorized representatives.

Sincerely,

J. Peter Baumgarten
Assistant to the Branch Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure: Copy of this letter for § 6110 purposes

cc: