Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Person To Contact:
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Refer Reply To:
CC:ITA:B08
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Date:
May 28, 2026

LEGEND

Taxpayer =
Advisor =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Date 6 =
Year 1 =

Dear :

This letter responds to Taxpayer's request dated Date 1, seeking a private letter ruling granting relief to make a late election pursuant to §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations. Specifically, Taxpayer requests an extension of time to file Form 1128, *Application to Adopt, Change or Retain a Tax Year,* to adopt a taxable year ending on Date 2, effective for Year 1.

FACTS

Taxpayer engaged Advisor, a qualified tax professional, to file Taxpayer's federal tax return for Year 1. Historically, Taxpayer had a taxable year ending on Date 3. However, the majority owner of Taxpayer died on Date 4. The majority owner's estate filed a tax return choosing a taxable year end of Date 5. Advisor did not become aware of the statutory requirement to change Taxpayer's taxable year to that of the majority interest taxable year until shortly after the due date for Taxpayer's Year 1 tax return of Date 6. Therefore, Advisor did not file the Year 1 return or Form 1128 electing a taxable year ending Date 2 for Year 1 by their due date of Date 5, nor did Advisor file a timely extension for the due date of the Year 1 return. The error was not due to any lack of due diligence or prompt action on the part of Taxpayer. As part of its review, Advisor realized the mistake and Taxpayer subsequently filed this request on Date 1, which was less than 90 days after Date 5, the missed deadline for timely filing Taxpayer's Form 1128.

Rev. Proc. 2006-46 provides the time and manner for a taxpayer within its scope to change its accounting period. Therefore, such a change is a regulatory election as defined in § 301.9100-1(b).

LAW AND ANALYSIS

Section 441(a) of the Internal Revenue Code provides that taxable income is computed on the basis of the taxpayer's taxable year. Section 441(b) and § 1.441-1(b)(1) of the Income Tax Regulations provide that the term "taxable year" generally means the taxpayer's annual accounting period, if it is a calendar or fiscal year, or, if applicable, the taxpayer's required taxable year.

Section 706(b)(1)(B)(i) provides that a partnership shall not have a taxable year other than the majority interest taxable year. Section 706(b)(4)(A)(i) provides that the term "majority interest taxable year" means the taxable year which constitutes the taxable year of 1 or more partners having an aggregate interest in partnership profits and capital of more than 50 percent.

Section 442 provides that if a taxpayer changes its annual accounting period, the new accounting period shall become the taxpayer's taxable year only if the change is approved by the Secretary.

Section 4.01 of Rev. Proc. 2006-46 provides that a change to the taxpayer's required taxable year may be an automatic accounting period change, provided the requirements of Rev. Proc. 2006-46 are met. Section 7.02(2) of Rev. Proc. 2006-46 provides that taxpayer must file a Form 1128 no earlier than the day following the first effective year (generally, the short period required to make the change), and no later than the due date (including extensions) for filing the tax return for the first effective year.

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 sets forth standards that the Commissioner will employ in determining whether to grant discretionary relief in situations that do not meet the requirements of § 301.9100-2. The standards applied are whether the taxpayer acted reasonably and in good faith in the matter, and whether the granting of relief will prejudice the interests of the government. Generally, a taxpayer will be deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, and that professional failed to make, or advise the taxpayer to make, the election at issue.

Section 301.9100-3(c)(1) provides that the Commissioner will grant a reasonable extension of time to make the regulatory election only when the interests of the Government will not be prejudiced by the granting of relief. Section 301.9100-3(c)(1)(i) states that the interests of the Government are prejudiced if granting relief will result in the affected Taxpayers, in the aggregate, having a lower tax liability in the aggregate for all years to which the election applies than if the election had been made on a timely basis. Section 301.9100-3(c)(1)(ii) provides that relief ordinarily will not be granted if the tax year in which the regulatory election should have been made, or any tax year that would have been affected by the election had it been timely made, is closed by the statute of limitations on assessment before the Taxpayer's receipt of the ruling granting 9100 relief.

Section 301.9100-3(c)(3) provides that the interests of the Government are deemed prejudiced except in unusual and compelling circumstances if an election is an accounting period regulatory election (other than the election to use other than 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 has acted reasonably and in good faith, and that the granting of relief would not prejudice the interests of the government. Taxpayer has satisfied the requirements for the granting of relief under § 301.9100-3. Consequently, the Service will consider Taxpayer’s Form 1128 requesting permission to change to a tax year ending Date 2, effective for the taxable year ended Date 2, Year 1, timely filed. Because a change of period under Rev. Proc. 2006-46 is under the jurisdiction of the Director, Internal Revenue Service Cener, where Taxpayer’s returns are filed, we have forwarded the application to the Director, Ogden, Utah Service Center. Any further communication regarding this matter should be directed to the Service Center.

Except for the specific ruling above, which is restricted to the filing of Form 1128, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Code or regulations that may be applicable thereto. This letter ruling is based on facts and representations provided by Taxpayer and its authorized representative, and is limited to the matters specifically addressed. No opinion is expressed as to the tax treatment of the transactions considered herein under the provisions of any other sections of the Code or regulations which may be applicable thereto, or the tax treatment of any conditions not specifically addressed herein.

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 is directed only to the taxpayer requesting it. Section 6110(k)(3) 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 your authorized representatives.

A copy of this letter must be attached to any 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.

Sincerely,

Erika C. Reigle
Acting Branch Chief, Branch 8
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: