

INTERNAL REVENUE SERVICE
Index No.: 9100.09-00
Number: **199927028**
Release Date: 7/9/1999

CC:DOM:IT&A:06//PLR-104742-99

April 9, 1999

RE:
EIN:

Attn:

Dear Taxpayer:

This is in response to your request for a private letter ruling regarding the late filing of a certain "statement" required under § 1.442-1(c)(1) of the Income Tax Regulations to change your annual accounting period without the prior approval of the Commissioner. You have requested an extension of time for filing the statement under the authority contained in § 301.9100-3 of the Procedure and Administration Regulations.

The taxpayer's "statement" under § 1.442-1(c)(1) of the Income Tax Regulations respecting a change in annual accounting period from a taxable year ending December 31, to a taxable year ending January 31, effective for the tax year beginning January 1, 1998, was due on or before October 15, 1998. Information furnished indicates that the taxpayer intended to make the change in a proper and timely manner, but that due to an error or misunderstanding, the statement was not timely filed. The taxpayer's request for relief under § 301.9100-3 of the regulations was made shortly after the due date for the filing of the statement. The information furnished also shows that the failure to timely file the statement was not due to any lack of due diligence or prompt action on the part of the taxpayer.

Section 1.442-1(c) of the regulations provides a special procedure for certain taxpayers meeting the conditions further described in § 1.442-1(c)(2), to "automatically" change their annual accounting period without the prior approval of the Commissioner by filing a certain "statement" as described therein. The statement referred to in § 1.442-1(c)(1) is generally required to be filed with the Director, Internal Revenue Service Center, where the taxpayer's annual returns of tax are filed, at or before the time (including extensions) for filing the return of tax for the short period required by the

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, we have determined that the taxpayer has acted reasonably and in good faith in this matter, 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 taxpayer is hereby granted an extension of time to timely file the statement referred to in § 1.442-1(c) of the regulations to change to a tax year ending January 31, effective for the tax year beginning January 1 and ending January 31, 1998. This extension shall be for a period of 45 days from the date of this letter; within this 45 day period, the taxpayer must, to effect the relief, file the required statement, together with a copy of this letter ruling, with the service center where its federal income tax return is filed.

The ruling contained in this letter is based upon facts and representations submitted by the taxpayer, and is limited to the filing of the statement referred to in § 1.442-1(c) of the regulations. Except as specifically addressed herein, no opinion is expressed regarding the tax treatment of the subject transaction under the provisions of any other sections of the Code or regulations that may be applicable thereto. This office has not verified any of the material submitted in support of the requested ruling; verification of factual information, representations, and other data is within the examination jurisdiction of the taxpayer's local district director.

A copy of this letter ruling is being forwarded to the taxpayer's district director.

In accordance with the provisions of a power of attorney currently on file with this office, copies of this ruling are being sent to the taxpayer's authorized representatives.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

Sincerely yours,

Assistant Chief Counsel
(Income Tax and Accounting)

/s/ Irwin A. Leib

By _____
Irwin A. Leib
Deputy Assistant Chief Counsel

Enclosures:

Copy of this letter
Copy for § 6110 purposes