

INTERNAL REVENUE SERVICE

Number: **200134013**
Release Date: 8/24/2001
Index Nos.: 9100.09-00

PLR-113182-01/CC:ITA:B9

May 23, 2001

Dear :

This is in reference to a Form 1128, Application to Adopt, Change, or Retain a Tax Year, submitted by the above-named taxpayer requesting permission to change her accounting period, for federal income tax purposes, from a taxable year ending December 31, to a taxable year ending September 30, effective September 30, 2000. The 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.

The taxpayer's Form 1128 requesting a change in accounting period to a tax year ending September 30, 2000 was due on or before November 15, 2000. The information furnished indicates that the application for the change in accounting period was filed late because of an error or misunderstanding. However, the form was filed within 90 days of the due date.

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 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.

Based on the facts and information submitted and the representations made, it is held that the taxpayer has 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 September 30, effective for the short period of January 1, 2000 to September 30, is considered timely filed.

The ruling contained in this letter is based the facts and representations that you submitted 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.

In accordance with the provisions of a power of attorney currently on file, we are sending the original of this ruling letter to the taxpayer's authorized representative, and a copy to the taxpayer.

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

Enclosures:

Copy of this letter
Copy for § 6110 purposes