

**INTERNAL REVENUE SERVICE**

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CC:ITA:B9/PLR-122101-00

December 28, 2000

Dear

This is in reference to a Form 1128, Application to Adopt, Change, or Retain a Tax Year, submitted on behalf of the above-named partnership, requesting permission to adopt a tax year, for federal income tax purposes, effective for the initial tax year ended . . . . . The partnership 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 partnership's Form 1128 requesting to adopt a June 30<sup>th</sup> tax year was due on or before . . . . . 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 1.706-1(b)(4)(ii) of the Income Tax Regulations states, in part, that where a newly formed partnership is required to secure prior approval from the Commissioner for the adoption of a taxable year, the partnership shall file an application on Form 1128 with the Commissioner on or before the last day of the month following the close of the taxable year to be adopted.

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 partnership provides evidence to establish that the partnership 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 partnership 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 partnership's late filed Form 1128 requesting permission to adopt a tax year, effective for the initial tax year ended is considered timely filed.

The ruling contained in this letter is based upon facts and representations submitted by the partnership 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 partnership 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 a copy of this ruling letter to the partnership's authorized representative.

This ruling is directed only to the partnership 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  
Heather Maloy