

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:ITA:4 PLR-128957-02

Date:

June 11, 2002

Dear _____ :

This is in reference to a Form 1128, Application to Adopt, Change, or Retain a Tax Year, submitted by you (TIN _____), requesting permission to change your accounting period, for federal income tax purposes, from a taxable year ending March 31 to a taxable year ending December 31, effective _____. You have requested that the Form 1128 be considered timely filed under the authority contained in § 301.9100-3 of the Procedure and Administration Regulations.

The information furnished indicates that you have filed your income tax returns on a December 31 tax year end since _____. You changed to a December 31 tax year end without permission.

Section 1.442-1(b) of the Income Tax Regulations provides that to secure the Commissioner's consent to a change in accounting period, the taxpayer must file an application on Form 1128 with the Commissioner before the 16th day of the second calendar month following the close of the short period. Thus, to be effective as you requested, your Form 1128 should have been filed before _____.

Section 301.9100-1, -2, and -3 provide the rules for extensions of time to make elections. Requests for extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2 (automatic extensions), such as the situation you present, 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. Section 301.9100-3(c)(3) states, in part, that the interests of the government are deemed to be prejudiced except in unusual and compelling circumstances if the request for relief is filed more than 90 days after the due date of filing the Form 1128.

You have not demonstrated unusual and compelling circumstances for filing the application beyond 90 days after its due date. Further, granting the requested relief would prejudice the interests of the government. Therefore, your request for an extension of time to file Form 1128 is denied.

PLR-128957-02

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any item discussed or referenced in this letter. This ruling is directed only to the taxpayer. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Enclosed is a copy of the letter ruling showing the deletions proposed to be made in the letter when it is disclosed under § 6110.

Sincerely,
Robert A. Berkovsky
Branch Chief
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosure