

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

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CC:IT:B05

PLR-134214-18

Date: March 14, 2019

Legend

Taxpayer =

Accountant: =

Year =

City =

State =

Dear :

This ruling is in reference to Taxpayer's request that a Form 1128, "Application To Adapt, Change, or Retain a Tax Year", be considered timely filed under the authority in §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

Taxpayer filed a late Form 1128 to change its accounting period, for federal income tax purposes, from a taxable year ending June 30 to one ending December 31, effective December 31, Year.

Section 1.442-1(a) of the Income Tax Regulations provides, in part, that a taxpayer seeking to change its annual accounting period and use a new taxable year must obtain the permission of the Commissioner. Section 1.442-1(b)(1) states that in order to secure the Commissioner's consent to change an annual accounting period a taxpayer must file a Form 1128 with the Commissioner within such time and in the manner provided in published administrative procedures.

Rev. Proc. 2006-45, 2006-2 C.B. 851 provides procedures for certain corporations to obtain automatic approval to change their annual accounting period under § 442 of the Internal Revenue Code. A corporation complying with all the applicable provisions of this revenue procedure will be deemed to have obtained the approval of the Commissioner to change its annual accounting period. Section 7.01(2) of Rev. Proc. 2006-45 provides that a Form 1128 filed pursuant to the revenue procedure will be considered timely filed for purposes of § 1.442-1(b)(1) of the Income Tax Regulations only if it is filed on or before the time (including extensions) for filing the return for the short period required to effect such change.

Taxpayer represents that it relied on Accountant for advice on appropriate actions and for timely filing of the necessary documents with the Internal Revenue Service. The information furnished indicates that Taxpayer did not file its Form 1128 by the due date of the return for the short period required to effect such change. However, after learning of the error, Taxpayer filed its Form 1128 under § 301.9100-3.

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. A request for relief subject to § 301.9100-3 will be granted when the taxpayer provides evidence to establish 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 by Taxpayer, we conclude that Taxpayer has acted reasonably and in good faith, and that the granting of relief will not prejudice the interest of the government. Accordingly, Taxpayer has satisfied the requirements of the regulations for granting of relief, and Taxpayer's late filed Form 1128 requesting to change to a taxable year ending December 31, effective December 31, Year, is considered timely filed.

Because a change in period under Rev. Proc. 2006-45 is under the jurisdiction of the Director, Internal Revenue Service Center, where the Taxpayer's returns are filed, we have forwarded the application to the Director, City, State Service Center. Any further communication regarding this matter should be directed to the Service Center.

This ruling is based on the facts and representations submitted by Taxpayer 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. However, as part of examination processes, the IRS may verify the factual information, representations, and other data submitted.

This ruling addresses the granting of § 301.9100-3 relief only. We express no opinion regarding the tax treatment of the instant transaction under the provisions of any other section of the Code, regulations, or regarding the tax treatment of any conditions existing

at the time of, or effects resulting from, the instant transaction. Specifically, we express no opinion as to whether Taxpayer is permitted under the Code and applicable regulations to change to the tax year requested in the Form 1128, or whether the change may be effected under Rev. Proc. 2006-45.

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.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code 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 representative.

Sincerely,

Shareen S. Pflanz
Senior Technician Reviewer, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)