

**INTERNAL REVENUE SERVICE**

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CC:ITA:B9/PLR-118140-00

December 12, 2000

Dear

This is in reference to a Form 1128, Application to Adopt, Change, or Retain a Tax Year, submitted by you, requesting permission to change your accounting period, for federal income tax purposes, from a taxable year ending , to a taxable year ending , 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 Form 1128 requesting a change in accounting period to a tax year ending was due on or before . The form was not 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.

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.

Based on the facts and information submitted and the representations made, it is held you have not demonstrated unusual and compelling circumstances for filing the application

beyond 90 days after its due date, and, therefore, the granting of relief under § 301.9100-3(a) will prejudice the interests of the government. Your request for an extension of time to file the Form 1128 is denied.

No opinion is expressed as to the tax treatment of the transaction under the provisions of any other sections of the Code and regulations which may be applicable thereto or the tax treatment of any conditions existing at the time of or effects resulting from the transaction which are not specifically set forth by the above ruling.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) provides that it may not be used or cited as precedent.

Sincerely yours,  
Associate Chief Counsel  
(Income Tax and Accounting)  
/s/ Heather C. Maloy