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taxpayer requested an extension of time to file its Form 1128 under § 301.9100-3 soon thereafter.

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 taxpayer's late filed Form 1128 requesting permission to change to February 28, effective February 28, Year, is considered timely filed.¹

Since a change in accounting periods under Rev. Proc. 2002-37 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, Philadelphia Service Center. Any further communication regarding this matter should be directed to the Service Center.

The ruling contained in this letter is based upon facts and representations submitted by the 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. 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, or whether the change may be effected under Rev. Proc. 2002-37.

¹ The taxpayer's application for a change in accounting period will be processed under Rev. Proc. 2002-37.

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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,

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

Enclosures:

Copy of this letter

Copy for § 6110 purposes

cc: