

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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In Re:

Refer Reply To:
CC:ITA:B06 – PLR-167316-03

Date:
April 20, 2004

Dear :

This ruling replies to the letter and enclosures requesting an extension of time under § 301.9100-1(c) of the Procedure and Administration Regulations for Parent to file copies of two Forms 3115, Application for Change in Accounting Method, with the Internal Revenue Service (IRS) national office. This request was made in accordance with § 301.9100-3.

FACTS

On Date 1, Parent timely filed its consolidated federal income tax return for the tax year ending Date 2, along with the originals of the relevant two Forms 3115 filed under Rev. Proc. 2002-9, 2002-1 C.B. 327, as modified by Rev. Proc. 2002-19, 2002-1 C.B. 696, as modified by Announcement 2002-17, 2002-1 C.B. 561, and as amplified, clarified, and modified by Rev. Proc. 2002-54, 2002-2 C.B. 432, to change the following methods of accounting:

- 1) for Subsidiaries #1 and #2 to deduct retirement and removal costs of depreciable assets pursuant to Rev. Rul. 2000-7, 2000-1 C.B. 227, under Rev. Proc. 2002-9, Appendix section 3.03; and
- 2) for Parent to deduct self-insured employee medical expenses in the tax year the claim is filed with the employer under Rev. Proc. 2002-9, Appendix section 8.01.

However, Parent's accountant inadvertently failed to timely file the copies of the two Forms 3115 with the IRS national office.

LAW AND ANALYSIS

Rev. Proc. 2002-9 provides the procedures by which a taxpayer may obtain automatic consent to change certain methods of accounting. A taxpayer complying with all the applicable provisions of this revenue procedure has obtained the consent of the Commissioner of the IRS to

change the taxpayer's method of accounting under § 446(e) and the Income Tax regulations thereunder.

Section 6.02(3)(a) of Rev. Proc. 2002-9 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2002-9 must complete and file a Form 3115 in duplicate. The original must be attached to the taxpayer's timely filed (including extensions) original federal income tax return for the year of change, and a copy (with signature) of the Form 3115 must be filed with the IRS national office no earlier than the first day of the year of change and no later than when the original is filed with the federal income tax return for the year of change.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make certain regulatory elections. Section 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, an extension of time is hereby granted for Parent to file the necessary copies of the Forms 3115 with the IRS national office. This extension shall be for a period of 30 days from the date of this ruling. Please attach a copy of this ruling to each of the Forms 3115 when they are filed.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the federal income tax consequences arising from Parent's and Subsidiaries' activities. Further, we express no opinion on whether Parent is qualified to file the Forms 3115 under Rev. Proc. 2002-9 or that it otherwise meets the requirements of that revenue procedure. Specifically, we express no opinion as to whether Subsidiaries' retirement and removal costs and Parent's self-insured employee medical expenses described above meet the requirements of Rev. Proc. 2002-9.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to Parent and Parent's authorized representative.

This ruling is directed only to Parent and Subsidiaries, who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

THOMAS A. LUXNER
Chief, Branch 6
Office of Associate Chief Counsel
(Income Tax & Accounting)