

**Internal Revenue Service**

Number: **200529001**

Release Date: 7/22/2005

Index Number: 446.14-00, 9100.10-01

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:ITA:B06

PLR-109422-05

Date:

April 18, 2005

Legend:

Taxpayer =

Date 1 =

Date 2 =

Dear :

This ruling is in reply to the letter and enclosures requesting an extension of time under section 301.9100-1(c) of the Procedure and Administration Regulations for Taxpayer to file a copy of Form 3115, Application for Change in Accounting Method, with the Internal Revenue Service (IRS) national office. This request was made in accordance with section 301.9100-3.

On or about Date 1, Taxpayer timely filed its federal income tax return for the taxable year ended Date 2, along with an original Form 3115 filed under Rev. Proc. 2002-9, 2002-1 C.B. 327, to change its method of accounting for mixed service costs and additional 236A costs under section 263A of the Internal Revenue Code and the Income Tax Regulations thereunder. However, a duplicate of the Form 3115 was not filed with the IRS national office because Taxpayer's accountant inadvertently failed to timely file the copy as required by section 6.02(3)(a) of Rev. Proc. 2002-9.

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 application provisions of this revenue procedure has obtained the consent of the Commissioner to change the taxpayer's method of accounting under section 446(e) and the 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 sections 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.

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 section 301.9100-2.

Requests for relief under section 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. Sec. 301.9100-3(a).

Based solely on the facts and representations submitted, including affidavits, we conclude that the requirements of sections 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, an extension of time is hereby granted for Taxpayer to file the necessary copy of the Form 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 the Form 3115 when it is filed.

Except as ruled upon above, no opinion is expressed or implied concerning the federal income tax consequences arising from Taxpayer's activities. Specifically, we express no opinion concerning whether Taxpayer is qualified to file its application for a change in accounting method under Rev. Proc. 2002-9 or that it otherwise meets the requirements of that revenue procedure.

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

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

Sincerely,

Edward S. Cohen  
Deputy Associate Chief Counsel  
(Income Tax and Accounting)