

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.

Telephone Number:

Refer Reply To:
CC:ITA:B07
PLR-120756-07
Date:
September 06, 2007

Re: Request For Extension of Time to File Form 3115

Taxpayer =

Parent =
Date 1 =
Date 2 =
Date 3 =
Official =

Dear

This letter responds to a letter dated March 27, 2007, submitted by Taxpayer requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file Form 3115, Application for Change in Accounting Method.

FACTS

Taxpayer consists of members of a consolidated group of which Parent is the parent corporation. Taxpayer filed the signed duplicate copy of a Form 3115 to change its method of accounting for depreciation under section 2.01 of the Appendix of Rev. Proc. 2002-9, 2002-1 C.B. 327, with the IRS National Office on Date 2. Because Taxpayer was under examination by the Internal Revenue Service, the filing was made in accordance with the 90-day window of Rev. Proc. 2002-9. A copy of the Form 3115 was also provided to the examining agent at the same time. Taxpayer timely filed its federal income tax return for the taxable year ending Date 1, on or about Date 3, through an electronic filing. Taxpayer's return reflected a change in Taxpayer's method of accounting for depreciation pursuant to section 2.01 of the Appendix of Rev. Proc. 2002-9, as reflected on the Date 2 duplicate filing. However, Taxpayer inadvertently neglected to attach the original of the Form 3115 to the electronically-filed federal income tax return.

A duly authorized officer of Taxpayer was responsible for the preparation and the filing of this Form 3115. The duplicate copy of the Form 3115 was properly submitted to the IRS National Office and to the examining agent. However, the officer inadvertently neglected to file the signed original of the Form 3115 with Taxpayer's electronically-filed Federal income tax return for the taxable year ending Date 1.

RULING REQUESTED

Accordingly, Taxpayer requests that the Service grant an extension of time to file the signed original Form 3115 in accordance with Rev. Proc. 2002-9, and that the Form 3115 be considered timely-filed under the authority contained in §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

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 Internal Revenue to change the taxpayer's method of accounting under § 446(e) of the Internal Revenue Code 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.

Under § 301.9100-1, 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 a regulatory election.

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.

Section 301.9100-3(a) provides that 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.

CONCLUSIONS

Based solely on the facts and the representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to file the original of the Form 3115 (with signature) in accordance with Rev. Proc. 2002-9.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the federal income tax consequences of the facts described above. Specifically, no opinion is expressed or implied concerning (i) whether Taxpayer is qualified to file the Form 3115 for the change in method of accounting for depreciation under Rev. Proc. 2002-9; (ii) whether each item of property that is the subject of such Form 3115 meets the requirements of section 2.01 of the Appendix of Rev. Proc. 2002-9, as modified by Rev. Proc. 2004-11, 2004-1 C.B. 311; or (iii) whether the change in method of accounting that is the subject of such Form 3115 qualifies under section 2.01 of the Appendix of Rev. Proc. 2002-9, as modified by Rev. Proc. 2004-11.

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

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

Sincerely,

Kathleen Reed

KATHLEEN REED
Branch Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosures:

Copy of this letter

Copy for section 6110 purposes