

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200944015**
Release Date: 10/30/2009

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 9100.00-00, 9100.10-00,
9100.10-01

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B06
PLR-117974-09

Date:
July 24, 2009

Attn.

Legend

Taxpayer =

Date 1 =

Dear :

This letter responds to a request for an extension of time under § 301.9100-1(c) of the Procedure and Administration Regulations for Taxpayer to file a signed duplicate copy of a Form 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

Taxpayer, a partnership, timely filed its federal tax return for the taxable year ending Date 1 along with the original of a Form 3115 to change its overall method of accounting from the cash receipts and disbursements method of accounting to an accrual method of accounting under section 14.01 of the Appendix of Rev. Proc. 2008-52, 2008-2 C.B. 587. However, Taxpayer failed to file a signed duplicate copy of the Form 3115 with the IRS national office as required by section 6.02(3)(a) of Rev. Proc 2008-52. In particular, after timely filing the original Form 3115 with its federal income tax return, Taxpayer discovered that the individual responsible for timely filing the copy of the Form 3115 had neglected to send the signed duplicate copy to the IRS national office.

Law and Analysis

Rev. Proc. 2008-52 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. 2008-52 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2008-52 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 45 calendar days from the date of this letter to file the necessary copy of the Form 3115 (with signature) with the IRS national office for the taxable year ended Date 1. Please attach this ruling letter to the copy.

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 whether Taxpayer is qualified to file a Form 3115 for the change in overall method of accounting under Rev. Proc. 2008-52, or whether the requested change in accounting method described above meets the requirements of Rev. Proc. 2008-52. Additionally, no opinion is expressed regarding

the representations made on the Form 3115, for example, the computation of the § 481(a) adjustment.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code 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 representative.

Sincerely,

Roy A. Hirschhorn
Senior Technician Reviewer, Branch 6
(Income Tax & Accounting)

Enclosure:

Copy for section 6110 purposes