

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B07
PLR-139375-09
Date: January 20, 2010

Re:

Parent =
Taxpayers =

A =
Date1 =

Dear :

This letter responds to a letter dated August 11, 2009, submitted by Parent requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to file a Form 3115, Application for Change in Accounting Method, to change Taxpayers' method of accounting for depreciation.

FACTS

Parent represents that the facts are as follows:

Taxpayers are members of an affiliated group of corporations that is headed by Parent and that files consolidated federal income tax returns. Parent timely filed its consolidated federal income tax return for the taxable year ended Date1 (the A taxable year), through an electronic filing. By the extended due date of such return, Parent timely filed the signed duplicate copy of a Form 3115 to change Taxpayers' method of accounting for depreciation for the A taxable year under section 6.01 of the Appendix of Rev. Proc. 2008-52, 2008-36 I.R.B. 587, with the Internal Revenue Service (IRS) national office. Parent's consolidated federal income tax return for the A taxable year reflected a change in Taxpayers' method of accounting for depreciation under Rev. Proc. 2008-52, as reflected on the duplicate filing of the copy of the Form 3115.

However, Parent inadvertently failed to attach the signed original of the Form 3115 to its electronically filed consolidated federal income tax return for the A taxable year.

Parent engaged an accounting firm to prepare and electronically file Parent's consolidated federal income tax return and this Form 3115 for the A taxable year. After timely filing such consolidated federal income tax return and the signed duplicate copy of such Form 3115, Parent and the accounting firm discovered that the accounting firm had neglected to scan the signed original of the Form 3115 when such consolidated federal tax return was electronically filed.

RULING REQUESTED

Parent requests an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to file the signed original of the Form 3115 to change Taxpayers' method of accounting for depreciation under Rev. Proc. 2008-52 for the A taxable year.

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 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 the grant of relief will not prejudice the interests of the government.

CONCLUSIONS

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, Parent is granted 60 calendar days from the date of this letter to file the original of the Form 3115 (with signature) to change Taxpayers' method of accounting for depreciation under Rev. Proc. 2008-52 for the A taxable year, with an amended consolidated federal income tax return for the A taxable year.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal income tax consequences of the facts described above under any other provisions of the Code. Specifically, no opinion is expressed or implied concerning (i) whether Parent and Taxpayer are qualified to file the Form 3115 for the change in method of accounting for depreciation under Rev. Proc. 2008-52; (ii) whether each item of property that is the subject of such Form 3115 meets the requirements of section 6.01 of the Appendix of Rev. Proc. 2008-52; (iii) whether the change in method of accounting that is the subject of such Form 3115 qualifies under section 6.01 of the Appendix of Rev. Proc. 2008-52; or (iv) the propriety of Taxpayers' present and proposed methods of accounting for depreciation for each item of property that is the subject of such Form 3115.

In accordance with the power of attorney, we are sending copies of this letter to Parent's authorized representatives. We are also sending a copy of this letter to the appropriate operating division director.

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

Sincerely,

KATHLEEN REED

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

Enclosures (2):
copy of this letter
copy for section 6110 purposes