

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201046002**
Release Date: 11/19/2010
Index Number: 9100.10-01

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B02
PLR-109111-10
Date:
August 18, 2010

TY:

Legend

Taxpayer =
Advisor=
Date1 =
Date2 =
Date3 =

Dear :

This is in response to the letter dated January 28, 2010, submitted on your behalf by your authorized representative. In the letter you request an extension of time to file a duplicate Form 3115, Application for Change in Accounting Method, with the Internal Revenue Service (IRS) national office. The request is made in accordance with §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

On Date1, Taxpayer timely filed its federal income tax return for the taxable year ended Date2 (year of change), along with the original Form 3115 filed under Rev. Proc. 2008-52, 2002-1 C.B. 327, to change its method of accounting for deducting internal employee compensation in the year the compensation is incurred, commencing with the taxable year ended Date2. However, Taxpayer failed to file a duplicate of the Form 3115 with the IRS until Date3 (one day after the deadline contained in section 6.02(3)(a) of Rev. Proc. 2008-52) due to an oversight by the Taxpayer's tax preparation service, Advisor. This delay was due to inadvertence and circumstances beyond Taxpayer's control.

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 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 tax return for the year of change, and a signed copy 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.

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.

Based solely on the facts and representations submitted, including affidavits, 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 Taxpayer to file the necessary copy of the Form 3115 with the IRS national office. In this regard, we will consider the signed copy of the Form 3115 submitted by Taxpayer to the IRS national office on Date3 as timely filed by Taxpayer for purposes of section 6.02(3)(a) of Rev. Proc. 2008-52.

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. 2008-52 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 your authorized representatives.

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.

Sincerely,

Norma C. Rotunno
NORMA C. ROTUNNO
Assistant to the Branch Chief, Branch 2
(Income Tax & Accounting)

cc: