

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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CC:ITA:7
PLR-131653-10
Date:
October 19, 2010

Re: Request for Extension of Time to File a Form 3115

Legend

Taxpayer =

Date 1 =

Dear :

This letter responds to a letter dated July 27, 2010, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file an original Form 3115, Application for Change in Accounting Method, with an original federal tax return.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is a calendar-year limited liability corporation that files its Federal income tax returns as a partnership. Taxpayer's overall method of accounting is the accrual method.

Taxpayer inadvertently failed to file a Form 7004, Application for Automatic Extension to File Certain Business Income Tax, Information, and Other Returns, for its taxable year ending on Date 1. As a result, Taxpayer did not timely file its Form 1065, U.S. Return of Partnership Income, along with an original Form 3115 filed under section 6.01 of the Appendix of Rev. Proc. 2008-52, 2008-2 C.B. 587, as amplified, clarified, and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371, to change its method of accounting of depreciation for certain depreciable assets.

RULING REQUESTED

Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to file the original Form 3115 described above with its Form 1065 for the taxable year ending on Date 1.

LAW AND ANALYSIS

Rev. Proc. 2008-52 provides procedures by which a taxpayer may obtain the 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 signatures) of the Form 3115 must be filed with the Internal Revenue Service 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 subject to § 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, Taxpayer is granted 60 calendar days from the date of this letter to file the original Form

3115 (with signature) that is the subject of this letter ruling, with an amended Federal partnership tax return for the taxable year ending on Date 1. Please attach a copy of this letter ruling to the amended return.

Except as specifically set forth above, we express no opinion concerning the tax consequences of the facts described above under any other provision of the Code. Specifically, no opinion is expressed or implied concerning whether: (1) Taxpayer is qualified to file the Form 3115 at issue under Rev. Proc. 2008-52; (2) Taxpayer otherwise meets the requirements of Rev. Proc. 2008-52, including those in section 6.01 of the Appendix of Rev. Proc. 2008-52; or (3) Taxpayer's proposed method of accounting described in its Form 3115 is a permissible method of accounting. Further, this letter ruling does not grant an extension of time for filing Taxpayer's Federal partnership tax return for the taxable year ending on Date 1.

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

In accordance with the power of attorney, we are sending copies of this letter to Taxpayer's authorized representatives. We are also sending a copy of this letter to the appropriate Industry Director, LB&I.

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