

**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:B06  
PLR-129745-10

Date:  
December 10, 2010

TY:

Legend

Taxpayer =  
Ein:

Preparer =

Year 1 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear

This letter relates to a private letter ruling request filed on behalf of Taxpayer, requesting an extension of time under § 301.9100-1(c) of the Procedure and Administration Regulations to file a signed duplicate copy of Form 3115, Application for Change in Accounting Method, for the year beginning Date 1 and ending on Date 2, as

required by § 6.02(3) of Rev. Proc. 2008-52, 2008-2 C.B. 587. This request was made in accordance with § 301.9100-3.

Taxpayer engaged Preparer to prepare and file its Year 1 federal and state income tax returns and to consult with Taxpayer on federal and state income tax matters. During Year 1, Taxpayer was required to write down the value of its inventory for financial statement purposes. After consulting with Preparer, Taxpayer decided upon a corresponding change in inventory valuation for federal income tax purposes. Accordingly, Taxpayer proposed to change its method of inventory valuation from the cost method to the lower of cost or market method under Treas. Reg. §1.471-4. This, a change from one permissible valuation method to another permissible valuation method, is described in Section 21.11 of the Appendix of Rev. Proc. 2008-52. Taxpayer identifies its inventory under the first-in, first-out inventory method.

On Date 3, Taxpayer timely filed its federal income tax return electronically for the taxable year ending Date 2, attaching a scanned copy of the Form 3115 prepared under Rev. Proc. 2008-52. On its return, Taxpayer implemented the proposed change in valuing its inventory and included the negative section 481(a) adjustment resulting from the change on its return for the Year 1 taxable year.

Taxpayer relied on Preparer to satisfy the requirements for making the proposed change in valuing Taxpayer's inventory, including filing the signed duplicate copy of the Form 3115 with the Internal Revenue Service's National Office ("the National Office"). To that end, Taxpayer provided Preparer a signed duplicate Form 3115 prior to Date 3 to file with the National Office. However, Preparer inadvertently failed to timely file the signed duplicate Form 3115 on or before Date 3, as required by Rev. Proc. 2008-52.

On Date 4, during the course of a routine internal request of a copy of the signed duplicate Form 3115, Preparer discovered that it had not filed the required duplicate Form 3115 on Taxpayer's behalf. Preparer immediately informed Taxpayer that it should request an extension of time under Treas. Reg. § 301.9100 to file the duplicate copy of Form 3115.

Rev. Proc. 2008-52 provides the procedures by which a taxpayer may obtain automatic consent to change certain methods of accounting. A taxpayer satisfying all applicable requirements of this revenue procedure is deemed to have obtained the consent of the Commissioner to change its method of accounting under § 446(e) of the Internal Revenue Code and associated Income Tax Regulations.

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 file Form 3115 with two separate parts of the Internal Revenue Service. The original must be attached to the taxpayer's timely original federal income tax return for the year of change, and a signed copy must be

filed with the National Office no earlier than the first day of the year of change, and no later than the date the original is filed with the taxpayer's federal income tax return.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make certain regulatory elections. Treas. Reg. § 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.

Treas. Reg. § 301.9100-2 provides automatic extensions of time for making certain elections. Treas. Reg. § 301.9100-3 provides extensions of time for making elections that do not meet the requirements of Treas. Reg. § 301.9100-2.

Requests for relief under Treas. Reg. § 301.9100-3 will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner (1) that the taxpayer acted reasonably and in good faith, and (2) that granting relief will not prejudice the interests of the government. Treas. Reg. § 301.9100-3(a).

Based solely on the facts and representations submitted, we conclude that the requirements of Treas. Reg. §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, we hereby grant an extension of time for Taxpayer to file the necessary copy of the Form 3115 with the national office. This extension shall be for a period of 30 days from the date of this ruling. Please attach a copy of this ruling to the Form 3115.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, such material is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the Power of Attorney on file with this office, copies of this letter are being sent to Taxpayer's authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. However, since Taxpayer files its returns electronically it may satisfy this requirement by attaching to its returns a statement providing the date and control number of this letter ruling.

Sincerely,

ROY HIRSCHHORN  
Branch Chief, Branch 6  
Office of Associate Chief Counsel  
(Income Tax & Accounting)