

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201224005**
Release Date: 6/15/2012

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:
, ID No.
Telephone Number/Fax Number:

Index Number: 9100.10-01

Refer Reply To:
CC:ITA:6
PLR-108559-12
Date:
March 15, 2012

In Re: Request for Extension of Time to File Form 3115, Application for Change in Method of Accounting.

Legend

Taxpayer =
EIN:

Preparer =

Year 1 =

Year 2 =

Date 1 =

Dear :

This letter is in reply to a private letter ruling request dated January 17, 2012, filed on behalf of Taxpayer by its authorized representative, Preparer. Taxpayer requests an extension of time under § 301.9100-1(c) of the Procedure and Administration Regulations to file signed Forms 3115, Applications for Change in Accounting Method, for the taxable year beginning Date 1, concerning inventory costs and goods purchased for resale, as required by section 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 its Year 1 federal income tax return. After consulting with Preparer, Taxpayer decided to change its method of identifying and allocating costs to inventory to comply with § 263A of the Internal Revenue Code and to change the number and composition of pools under the dollar-value LIFO method of identifying inventory to comply with § 1.472-8(b)(1) of the Income Tax Regulations.

Taxpayer stated that the former change is described in section 11.02 of the APPENDIX of Rev. Proc. 2008-52 and that the latter change is described in section 22.10 of the APPENDIX of Rev. Proc. 2008-52. Taxpayer decided to implement both changes in method of accounting for Year 2 and Taxpayer implemented the proposed changes on its Year 2 tax return.

Preparer prepared the Forms 3115 and copies of the Forms 3115 were timely filed with the IRS national office in accordance with section 6.02(3) of Rev. Proc. 2008-52. However, erroneously, the originals of the Forms 3115 were attached to Taxpayer's timely filed Year 1 tax return, instead of Taxpayer's timely filed Year 2 tax return as required by section 6.02(3) of Rev. Proc. 2008-52.

Taxpayer is under examination for the Year 1 taxable year. While helping Taxpayer prepare for the opening conference with an examining agent, Preparer discovered the failure to attach the original Forms 3115 to Taxpayer's Year 2 tax return. Promptly, Taxpayer filed this request for an extension of time to file original Forms 3115 with Taxpayer's timely filed Year 2 tax return.

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) and associated 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 complete two separate steps. Step one requires the taxpayer to attach the original Form 3115 to the taxpayer's timely filed original federal income tax return for the year of change. Step two requires the taxpayer to file a signed copy of the Form 3115 with the national office no earlier than the first day of the year of change, and no later than the date the original Form 3115 is filed with the taxpayer's federal income tax return.

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.

Requests for relief under § 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. See § 301.9100-3(a).

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, we hereby grant an extension of time for Taxpayer to file the necessary originals of the Forms 3115 with its Year 2 federal income tax return. 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 Forms 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 materials 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. Specifically, we express no opinion as to whether Taxpayer qualifies to make either of its changes in accounting method under the provisions of Rev. Proc. 2008-52. Nor do we express any opinion as to whether Taxpayer has changed to appropriate methods of accounting.

This ruling is directly 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.

Sincerely,

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

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

cc: