

Dear _____ :

This letter is in reply to a private letter ruling request dated November 6, 2013, filed by Taxpayer on behalf of itself and its five subsidiaries, B, C, D, E, F, requesting an extension of time under § 301.9100-1(c) of the Procedure and Administration Regulations to file a copy of a Form 3115, Application for Change in Accounting Method, for the taxable year beginning Date 1 and ending on Date 2, with the national office as required by section 6.02(3) of Rev. Proc. 2011-14, 2011-1 I.R.B. 330. Taxpayer and its subsidiaries requested an accounting method change for software development costs that qualify as research and experimental costs under § 174. Taxpayer's private letter ruling request was made in accordance with § 301.9100-3.

On Date 3, Taxpayer timely filed its consolidated federal income original tax return for the taxable year ending Date 2, along with the original of the Form 3115. However, Taxpayer did not file a copy of Form 3115 with the national office as required by Rev. Proc. 2011-14, because Preparer (Taxpayer's accountant) did not inform Taxpayer, either orally or in writing, of the requirement to do so. Taxpayer's tax return reflected this change in accounting method.

Preparer later discovered that the copy of the Form 3115 was not filed with the national office and informed Taxpayer. Taxpayer promptly filed this request for an extension of time to file a copy of the Form 3115 with the national office.

Rev. Proc. 2011-14 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. 2011-14 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2011-14 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 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.

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 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 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 its change in accounting method under the provisions of Rev. Proc. 2011-14. Nor do we express any opinion as to whether Taxpayer has changed to an appropriate method of accounting.

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, a copy of this letter is being sent to Taxpayer's authorized representatives.

Sincerely,

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

Enclosure:

Copy for section 6110 purposes