

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:6
PLR-121501-14
Date:
November 03, 2014

LEGEND

Parent =

S1 =

Date1 =

Date2 =

Date3 =

Dear :

This ruling responds to a letter dated May 20, 2014, submitted by Parent on behalf of its subsidiary, S1. Parent is requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file the originals and the signed, duplicate copies of these originals of the Forms 3115, *Application for Change in Accounting Method*, for S1. Parent should have filed these originals and copies of these originals pursuant to section 6.02(3)(a) of Rev. Proc. 2011-14, 2011-4 I.R.B. 330, 346, on behalf of S1 for the taxable year beginning Date1.

FACTS

Parent represents the facts are as follows:

Parent files a consolidated federal income tax return on a calendar year basis that includes various subsidiaries. One of these subsidiaries, S1, wanted to change two of its LIFO (Last-in, First-out) inventory sub-methods under § 472 of the Internal Revenue Code and one cost method under § 263A for its taxable year beginning Date1. Parent believes that both LIFO inventory sub-methods and the cost method accounting

changes could be implemented under Rev. Proc. 2011-14. Thus, in accord with the procedures of Rev. Proc. 2011-14, Parent should have completed the required originals of the Forms 3115, reflecting the three desired accounting method changes, and attached these originals to Parent's, timely filed, consolidated federal income tax return that was to be filed for the taxable year beginning Date1. Further, in accord with the procedures of Rev. Proc. 2011-14, copies of these originals of the Forms 3115, with an original signature or a photocopy of the original signature, should have been timely filed with the appropriate office of the Internal Revenue Service. Lastly, Parent's consolidated federal income tax return that was to be filed for the taxable year beginning Date1, should have reflected the three accounting method changes made by S1.

Parent's consolidated federal income tax return that was to have been filed for the taxable year beginning Date1 was due on Date2, without extension. Parent could not file its consolidated federal income tax return for the taxable year beginning Date1 by Date2, so it intended to request an extension of the Date2, due date to Date3. However, due to an extraordinary series of events, Parent failed to file timely Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, for the taxable year beginning Date1. In fact, Parent never filed its Form 7004. As a result, when Parent did file its consolidated federal income tax return for the taxable year beginning Date1, on or before Date3, the return was late. This late filing of its return made the originals and the signed, duplicate copies of these originals of the Forms 3115, which Parent was filing on behalf of S1, late.

Parent has received a receipt from the Government showing that it had timely filed an electronic federal tax payment on or before Date2, that is associated with the consolidated federal income tax return Parent would file for the taxable year beginning Date1. Noted on this receipt was that the payment was associated with an "Extension – Form 7004." Further, Parent has indicated that it had properly filed for numerous state and municipality tax extensions for the taxable year beginning Date1. Lastly, Parent represents that it did timely file a Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*, for the taxable year beginning Date1. Parent represents that the consolidated federal income tax return that it did file for the taxable year beginning Date1, does reflect the three accounting method changes made by S1.

Parent was unaware that its Form 7004 had not been filed until it recently received a notice from the Service regarding the late filing of Forms 5472, *Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business*. This notice stated that because no Form 7004 had been filed, Parent's consolidated federal income tax return for the taxable year beginning Date1, was late, and thus, the Forms 5472 that had been filed with it were also late. Parent, upon receiving this notice, promptly filed this request to obtain an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 for S1's Forms 3115.

RULING REQUESTED

Parent requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to file the originals and the signed, duplicate, copies of these originals of the Forms 3115 that are required by Rev. Proc. 2011-14 for S1 to obtain the Commissioner's permission to change its accounting methods for its LIFO inventory method and its § 263A cost method for the taxable year ending Date1.

LAW AND ANALYSIS

Rev. Proc. 2011-14 provides the procedures by which a taxpayer may obtain automatic consent to change certain accounting methods. A taxpayer complying with all the applicable provisions of this revenue procedure has obtained the consent of the Commissioner to change its accounting method under § 446(e) and the Income Tax Regulations thereunder.

Section 6.02(3)(a) of Rev. Proc. 2011-14 provides that a taxpayer changing an accounting method pursuant to Rev. Proc. 2011-14 must complete and file a Form 3115 in duplicate. The original must be attached to the taxpayer's timely filed (including any extensions) original federal income tax return for the year of change, and a copy (with signature) of the Form 3115 must be filed with the appropriate office of the Service 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.

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 that the granting of relief will not prejudice the interests of the Government.

Section 301.9100-3(c)(2) imposes special rules for accounting method regulatory elections. This section provides, in relevant part, that the interests of the Government

are deemed to be prejudiced except in unusual and compelling circumstances when the accounting method regulatory election for which relief is requested is subject to the procedure described in § 1.446-1(e)(3)(i) or the relief requires an adjustment under § 481(a) (or would require an adjustment under § 481(a) if the taxpayer changed to the accounting method for which relief is requested in a taxable year subsequent to the taxable year the election should have been made).

CONCLUSION

Based solely on the facts and representations submitted, this office concludes that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Parent is granted 60 calendar days from the date of this letter to:

- (1) file the required originals of the Forms 3115 changing S1's LIFO inventory method and its § 263A cost method for the taxable year ending Date1, with an amended consolidated federal income tax return, and
- (2) file the duplicate copies (with signatures) of the Forms 3115 with the appropriate office of the Service.

Please attach a copy of this letter ruling to the amended return and to each duplicate copy of Form 3115.

Except as expressly set forth above, we express no opinion concerning the tax consequences of the facts described above under any other provision of the Code or regulations. Specifically, no opinion is expressed or implied concerning whether (1) the accounting method changes S1 has made are eligible to be made under Rev. Proc. 2011-14 or (2) S1 otherwise meets the requirements of Rev. Proc. 2011-14 to make accounting method changes using Rev. Proc. 2011-14. Further, no opinion is expressed regarding the correctness of S1's inventory or capitalization of cost methods. Lastly, we emphasize that this letter ruling does not grant any extension of time for the filing of Parent's Form 7004 or its consolidated federal income tax return for the taxable year ending Date1.

The ruling contained in this letter ruling is based upon facts and representations submitted by Parent with accompanying penalty of perjury statements executed by appropriate parties. While this office has not verified any of the material submitted in support of this request for an extension of time to file the required Forms 3115, all material is subject to verification on examination.

This ruling is directed only to Parent, 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, we are sending copies of this letter ruling to Parent's authorized representatives.

Sincerely,

Cheryl L. Oseekey
Senior Counsel, Branch 6
Office of Associate Chief Counsel
(Income Tax & Accounting)