

Internal Revenue Service

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Date:
April 4, 2017

LEGEND

Taxpayer =

Date 1 =

Dear

This letter responds to Taxpayer's request for an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file a Form 3115, Application for Change in Accounting Method, pursuant to § 446(e) of the Internal Revenue Code for Taxpayer's taxable year ending Date 1. This Form 3115 should have been filed by Date 1.

Taxpayer intends to file a Form 3115 to change one of its accounting methods. This accounting change will require an adjustment under § 481(a).

LAW AND ANALYSIS

Generally, a taxpayer that failed to timely make an election may submit a request for relief under § 301.9100-1(c) to obtain an extension of time to make the desired election. An election is defined in § 301.9100-1(b) as including a request to adopt, change, or retain an accounting method.

Taxpayer is requesting an extension of time to make a regulatory election. A regulatory election is defined in § 301.9100-1(b) as including an election whose due date is prescribed by a regulation published in the Federal Register. The Date 1 due date for

Taxpayer's Form 3115 is prescribed by § 1.446-1(e)(3)(i) of the Income Tax Regulations (pursuant to regulations and other guidance in effect for the taxable year ending Date 1 pertaining to changes in method of accounting).

To obtain an extension of time to make its regulatory election, Taxpayer must satisfy the requirements listed in § 301.9100-3(a). Specifically, Taxpayer must demonstrate to the satisfaction of the Commissioner that it acted reasonably and in good faith, and that granting an extension of time to make the regulatory election will not prejudice the interests of the Government. Section 301.9100-3(c)(2) provides special rules for determining whether the Government's interests are prejudiced when the taxpayer is seeking relief with respect to an accounting method regulatory election.

Under § 301.9100-3(b)(1)(i), generally, a taxpayer will be deemed to have acted reasonably and in good faith if the taxpayer requests relief before the failure to make the regulatory election is discovered by the Internal Revenue Service. However, pursuant to § 301.9100-3(b)(3), a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer seeks to alter a return position for which an accuracy-related penalty has been or could be imposed under § 6662 and the new position requires or permits an election for which relief is requested or if the taxpayer was informed in all material respects of the required election and related tax consequences but the taxpayer chose not to make it. Furthermore, a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer uses hindsight in requesting relief.

Section 301.9100-3(c)(1) describes generally when the interests of the Government are prejudiced. Generally, the Government's interests are prejudiced if granting relief under § 301.9100 would result in a taxpayer having a lower tax liability in the aggregate for all tax years affected by the regulatory election than the taxpayer would have had if the election had been timely made (taking into account the time value of money). Further, the interests of the Government are ordinarily prejudiced if the tax year in which the regulatory election should have been made or any tax years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment under § 6501(a) before the taxpayer's receipt of a ruling granting relief under § 301.9100.

The Government's interests are deemed to be prejudiced except in unusual and compelling circumstances if the regulatory election for which relief under § 301.9100 is requested is subject to the procedure described in § 1.446-1(e)(3)(i). Further, the Government's interests are deemed to be prejudiced except in unusual and compelling circumstances if the regulatory election for which relief under § 301.9100 is requested requires an adjustment under § 481(a). See § 301.9100-3(c)(2)(i) and (ii).

CONCLUSION

The information furnished by Taxpayer demonstrates to the satisfaction of the Commissioner that it had acted reasonably and in good faith, and that granting an extension of time to make the desired regulatory election would not prejudice the interests of the Government. Accordingly, Taxpayer is granted 45 days from the date of this letter to submit its regulatory election to the National Office of the Internal Revenue Service. The appropriate user fee must be enclosed with this regulatory election.

No opinion is expressed or implied as to the application of any other provisions of the Code or the regulations that may be applicable to the transaction. It should be understood that this ruling only permits Taxpayer to file the regulatory election at issue for the taxable year ending Date 1.

The ruling contained in this letter ruling is based upon facts and representations submitted by Taxpayer, 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 regulatory election, all material is subject to verification on examination.

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

In accordance with the power of attorney on file with the Service, we are sending a copy of this letter to Taxpayer's authorized representatives.

Sincerely,

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

Enc.: Copy for § 6110 purposes