

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **20221007**
Release Date: 5/27/2022

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 9100.04-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B07
PLR-124394-21

Date:
March 2, 2022

Re: Request for Extension of Time to File the Duplicate Form 3115

Legend

Taxpayer	=	
Year1	=	
<u>A</u>	=	
Date1	=	
Date2	=	
Date3	=	
Date4	=	

Dear :

This ruling letter responds to a letter dated November 12, 2021, and subsequent correspondence submitted by Taxpayer, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file the duplicate copy of the Form 3115, *Application for Change in Accounting Method*. Taxpayer should have filed the duplicate copy of the Form 3115 pursuant to section 6.03(1)(a)(i)(B) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, 432, beginning for the taxable year beginning Date1, and ended Date2. This letter ruling is being issued electronically as permissible under section 7.02(5) of Rev. Proc. 2021-1, 2021-1 I.R.B. 1, 33.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer, a limited liability company, files a Form 1065, *U.S. Return of Partnership Income*, on a calendar-year basis. Taxpayer's overall method of accounting is an accrual method.

Beginning for the taxable year beginning Date1, Taxpayer wanted to change its method of accounting for depreciation of certain depreciable tangible property under § 168 of the Internal Revenue Code. Taxpayer believes that this change in method of accounting could be implemented under the automatic change procedures of Rev. Proc. 2015-13. Thus, in accord with the automatic change procedures of Rev. Proc. 2015-13, Taxpayer should have completed the original, signed Form 3115, reflecting the desired accounting method change, and attached this original to Taxpayer's timely-filed federal income tax return for the taxable year beginning Date1.

Further, in accord with the automatic change procedures of Rev. Proc. 2015-13, a copy of the original Form 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 (IRS). Lastly, Taxpayer's federal income tax return for the taxable year beginning Date1, should have reflected this accounting method change made by Taxpayer.

Taxpayer, with the assistance of A, an outside tax consulting firm, timely filed its federal income tax return for Year1, along with the signed original Form 3115 requesting to change its method of accounting for depreciation for certain assets under the automatic change procedures of Rev. Proc. 2015-13 for the change described in section 6.01 of Rev. Proc. 2019-43, 2019-48 I.R.B. 1107, 1115 (designated automatic accounting method change number 7). The accounting method change and accompanying adjustment under § 481(a) were reflected on Taxpayer's federal income tax return for Year1. However, Taxpayer inadvertently failed to file the duplicate copy of the Form 3115 with the appropriate IRS office, as required by section 6.03(1)(a)(i)(B) of Rev. Proc. 2015-13.

On Date3, A electronically filed Taxpayer's federal income tax return. After the close of normal business hours on Date3, A discovered that the duplicate copy of the Form 3115 had not been filed due to A's error. A attempted to contact Taxpayer for the necessary signature to file the duplicate copy of the Form 3115 on Date3. However, A was unable to obtain Taxpayer's signature and therefore was not able to file the duplicate copy of the Form 3115 before the extended due date of the return.

Subsequently, on Date4, A discussed the missed filing with Taxpayer. A then submitted this request for an extension of time to file the duplicate copy of Taxpayer's Form 3115.

RULING REQUESTED

Taxpayer is requesting an extension of time under §§ 301.9100-1 and 301.9100-3 to file the duplicate copy of the Form 3115 for the taxable year ended Date2.

LAW AND ANALYSIS

Rev. Proc. 2015-13, as clarified and modified by Rev. Proc. 2015-33, and as modified by Rev. Proc. 2021-34, by Rev. Proc. 2021-26, by Rev. Proc. 2017-59, and by section 17.02(b) and (c) of Rev. Proc. 2016-1, provides the procedures by which a taxpayer may obtain automatic consent to change certain accounting methods. Section 9 of Rev. Proc. 2015-13 provides that consent of the Commissioner to change a taxpayer's accounting method under § 446(e) and § 1.446-1(e) of the Income Tax Regulations is granted only if the taxpayer complies with all the applicable provisions of Rev. Proc. 2015-13 and implements the change in method of accounting on its federal income tax return for the requested year of change to which the original Form 3115 is attached pursuant to section 6.03 of Rev. Proc. 2015-13.

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13 provides that a taxpayer changing a method of accounting under the automatic change procedures must complete and file a Form 3115 in duplicate. The original Form 3115 must be attached to the taxpayer's timely filed (including any extension) 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 IRS no earlier than the first day of the year of change and no later than the date the taxpayer files the original Form 3115 with the federal income tax return for the requested year of change.

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 301.9100-1(c) provides that the Commissioner has the discretion to grant a reasonable extension of time under the rules in §§ 301.9100-1(c) and 301.9100-3 to make certain regulatory elections. Section 301.9100-1(b) defines a regulatory election as an election with a due date prescribed by regulations published in the Federal Register, or in a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

The requested accounting method change is a regulatory election as defined under § 301.9100-1(b) because the due date of the change is prescribed in § 1.446-1(e) and section 6.03(1)(a)(i) of Rev. Proc. 2015-13. Furthermore, Taxpayer's request must

be analyzed under the requirements of § 301.9100-3 because the automatic provisions of § 301.9100-2 are not applicable.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith and that granting 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, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to file the required duplicate copy of the Form 3115 pertaining to the previously described accounting change for the taxable year ended Date2. Please attach a copy of this letter ruling to the duplicate copy of the Form 3115 to be filed with the appropriate IRS office.

Except as expressly set forth above, we express no opinion concerning the federal 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 change discussed in this private letter ruling is described in section 6.01 of Rev. Proc. 2019-43 or is eligible to be made under the automatic change procedures of Rev. Proc. 2015-13; (2) Taxpayer otherwise meets the requirements of Rev. Proc. 2015-13 to make its accounting method change using the procedures of Rev. Proc. 2015-13; or (3) Taxpayer's method of accounting for its depreciable tangible property is permissible.

The ruling contained in this letter ruling is based upon information and representations submitted on behalf of 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 required copy of the Form 3115, all material is subject to verification on examination.

This letter ruling is directed only to the taxpayer requesting 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 this office, a copy of this letter is being sent to Taxpayer's authorized representative. We are also sending a copy of this letter ruling to the appropriate IRS operating division official.

Sincerely,

Charles J. Magee

CHARLES J. MAGEE
Senior Counsel, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure:

copy of this letter
copy for section 6110 purposes

cc: