

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202237008**
Release Date: 9/16/2022
Index Number: 9100.10-01

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:FIP:B04
PLR-125554-21

Date:
June 17, 2022

Taxpayer =
Taxable Year =
Accounting Firm =
Date A =
Date B =

Dear _____ :

This letter is in reply to a private letter ruling request made by Taxpayer for an extension of time under §§ 301.9100-1(c) and 301.9100-3 of the Procedure and Administration Regulations to file a copy of a Form 3115, Application for Change in Accounting Method, for Taxable Year. This letter ruling is being issued electronically in accordance with section 7 of Rev. Proc. 2021-1, 2021-1 I.R.B. 1. A paper copy will not be mailed to Taxpayer.

FACTS

Taxpayer makes the following representations:

Taxpayer is a parent of a consolidated group. Taxpayer is a life insurance company that uses an overall accrual method of accounting for federal income tax purposes.

Taxpayer engaged Accounting Firm to prepare federal and state income tax returns for Taxable Year. Taxpayer also engaged Accounting Firm to prepare a Form 3115 for an accounting method change that could be implemented *via* the automatic procedures set forth in Rev. Proc. 2015-13, 2015-5 I.R.B. 419. Specifically, Taxpayer requested consent to change its method of accounting for computing unearned premiums and unpaid loss reserves pursuant to § 807 of the Internal Revenue Code (“Code”) provided in section 26.04 of Rev. Proc. 2019-43, 2019-48 I.R.B. 1107, 1203.

Taxpayer timely filed its federal income tax return on Form 1120-L, US Life Insurance Company Income Tax Return, for Taxable Year on Date A. Taxpayer attached the original Form 3115 to its return, but due to administrative oversight, failed to file a copy of the Form 3115 with the appropriate office at the Internal Revenue Service (“IRS”).

On Date B, Accounting Firm advised Taxpayer to file this request for an extension of time to file a copy of the Form 3115.

RULING REQUESTED

Taxpayer requests an extension of time under §§ 301.9100-1(c) and 301.9100-3 to file a copy of its Form 3115, which was attached to Taxpayer’s federal income tax return filed for Taxable Year.

LAW AND ANALYSIS

Section 301.9100-1(c) provides that the Commissioner has the discretion to grant a reasonable extension of time under the rules in §§ 301.9100-2 and 301.9100-3 to make certain regulatory elections. Section 301.9100-1(b) provides that an election includes a request to change an accounting method, and 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.

Section 301.9100-2 provides for automatic extensions of time for making certain elections. Section 301.9100-3 provides for extensions of time for making elections that do not meet the requirements of § 301.9100-2.

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) of the Income Tax Regulations and section 6.03(1)(a)(i) of Rev. Proc. 2015-13. Taxpayer’s request must be analyzed under the requirements of § 301.9100-3 because the automatic provisions of § 301.9100-2 are not applicable.

Requests for relief under § 301.9100-3 will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner (i) that the taxpayer acted reasonably and in good faith, and (ii) that granting relief will not prejudice the interest of the government. See § 301.9100-3(a).

Section 301.9100-3(b)(1) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer: (i) requests relief before the failure to make a regulatory election is discovered by the IRS; (ii) failed to make the election because of intervening events beyond the taxpayer’s control; (iii) failed to make the election because, after exercising reasonable diligence, the taxpayer was unaware of the

necessity of the election; (iv) reasonably relied on written advice of the IRS; or (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(b)(3) provides that a taxpayer is deemed not to have acted reasonably and in good faith if the taxpayer: (i) seeks to alter a return position for which an accuracy-related penalty has been or could be imposed under § 6662 at the time the taxpayer requests relief and the new position requires or permits a regulatory election for which relief is requested; (ii) was informed in all material respects of the required election and related tax consequences and chose not to file the election; or (iii) uses hindsight in requesting relief.

Section 301.9100-3(c)(i) provides that the interests of the government are prejudiced if granting relief would result in the taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made (taking into account the time value of money). This section also provides that, if the tax consequences of more than one taxpayer are affected by the election, the government's interests are prejudiced if extending the time for making the election may result in the affected taxpayers, in the aggregate, having a lower tax liability than if the election had been timely made.

Further, § 301.9100-3(c)(1)(ii) provides, in part, that the interests of the government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made, or any taxable 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 this section.

Section 301.9100-3(c)(2) imposes special rules for accounting method regulatory elections. This section provides that the interests of the government are deemed to be prejudiced except in unusual and compelling circumstances if the accounting method regulatory election for which relief is requested: (i) is subject to the procedure described in § 1.446-1(e)(3)(i) (requiring the advance written consent of the Commissioner); (ii) requires an adjustment under § 481(a) (or would require an adjustment under § 481(a) if the taxpayer changed to the method of accounting for which relief is requested in a taxable year subsequent to the taxable year the election should have been made); (iii) would permit a change from an impermissible method of accounting that is an issue under consideration by examination, an appeals office, or a federal court and the change would provide a more favorable method or more favorable terms and conditions than if the change were made as part of an examination; or (iv) provides a more favorable method of accounting or more favorable terms and conditions if the election is made by a certain date or taxable year.

CONCLUSION

On the basis of Taxpayer's representations, we conclude that the requirements of §§ 301.9100-1(c) and 301.9100-3 have been satisfied. Accordingly, we hereby grant an extension of time for Taxpayer to file a copy of the Form 3115 with the appropriate IRS office. This extension shall be for a period of 45 days from the date of this ruling.

Except as expressly set forth above, this office neither expresses nor implies any opinion concerning any tax consequences of the facts described above under any other provision of the Code or regulations. This ruling merely permits Taxpayer to file a copy of the Form 3115 late. We express no opinion as to whether the accounting method change discussed in this private letter ruling should be approved by a director in connection with the examination of Taxpayer's federal income tax return.

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 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 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 each of Taxpayer's authorized representatives.

Sincerely,

Rebecca L. Baxter
Senior Technician Reviewer, Branch 4
Office of the Associate Chief Counsel
(Financial Institutions & Products)

cc: