

**Office of Chief Counsel
Internal Revenue Service
Memorandum**

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subject: Late filing of Form 3115 duplicate copy

This Generic Legal Advice Memorandum explains the automatic 6-month extension to file the duplicate copy of a Form 3115. This advice may not be used or cited as precedent.

ISSUE

If the original copy of the Form 3115 was attached to the taxpayer's timely filed original federal income tax return, but the duplicate copy of the Form 3115 was not filed by the date the original Form 3115 was filed, does the automatic 6-month extension provided in § 301.9100-2(b) of the Procedure and Administration Regulations apply to the duplicate copy of the Form 3115?

CONCLUSION

Yes, the automatic 6-month extension provided in § 301.9100-2(b) applies to the filing of the duplicate copy if the original of the Form 3115 was attached to the taxpayer's timely filed original federal income tax return.

LAW AND ANALYSIS

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13, 2015-5, I.R.B. 419, provides that, in general, to obtain the automatic consent of the Commissioner of Internal Revenue to change a method of accounting described in Rev. Proc. 2019-43, 2019-48 I.R.B. 1107

(Automatic Method Change), a taxpayer must complete a Form 3115, Application for Change in Method of Accounting, and file that Form 3115 in duplicate. Section 6.03(1)(a)(i)(A) provides that the original completed Form 3115 (or electronic version of such) is attached to the timely filed (including any extension) original federal income tax return implementing the requested change for the requested year of change. A duplicate copy is filed with the IRS in Ogden, UT (Duplicate Copy) and is a “signed copy of the original Form 3115” that must be filed “no earlier than the first day of the requested 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.” See section 6.03(1)(a)(i)(B) of Rev. Proc. 2015-13 and section 9.05 of Rev. Proc. 2020-1, 2020-1 I.R.B. 1.

Section 6.03(4)(a) of Rev. Proc. 2015-13 provides an automatic extension to file Form 3115 for an Automatic Method Change if the taxpayer:

- (i) timely filed (including any extension) its original federal income tax return for the year of change;
- (ii) files an amended return within 6 months from the due date (excluding any extension) of the federal income tax return for the year of change implementing the requested change in method of accounting for the year of change;
- (iii) attaches the original Form 3115 to the amended return;
- (iv) files a signed copy of the original Form 3115 with the IRS in Ogden, UT... no later than the date the original is filed with the amended return;
- (v) provides a signed copy of the original Form 3115 to the examining agent, Appeals officer(s), or all counsel to the government, as applicable; and
- (vi) attaches a statement to the Form 3115 (original, Duplicate Copy, and any other copy), that the Form 3115 is being filed pursuant to § 301.9100-2(b) of the Procedure and Administration Regulations.

Section 301.9100-2(b) provides that “[a]n automatic extension of 6 months from the due date of a return excluding extensions (automatic 6-month extension period) is granted to make regulatory or statutory elections whose due dates are the due date of the return or the due date of the return including extensions provided the taxpayer timely filed its return for the year the election should have been made and the taxpayer takes” the steps required to file the election in accordance with the statute or published guidance.

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13 generally provides that a taxpayer must file its Form 3115, in duplicate, no later than the date when the taxpayer files its timely filed (including extensions) federal income tax return implementing the requested change for the year of change. Section 6.03(4)(a) explicitly provides that the automatic extension of time under § 301.9100-2(b) is applicable for Automatic Method Changes, and allows a taxpayer that timely filed its return to correct its return to implement an Automatic

Method Change until the end of the automatic 6-month extension period by amending its return and filing the Form 3115 in duplicate.

Some taxpayers may not be able to mail the Duplicate Copy no later than the day on which the original Form 3115 is filed, as required by section 6.03(1)(a)(i)(B). This is particularly true currently given restrictions on movement in place throughout the nation due to the COVID-19 pandemic. However, if such taxpayers submit the Duplicate Copy before or on the end of the automatic 6-month extension period for the return for the year of change, then such taxpayers will not be treated as having failed to comply with the procedures for Automatic Method Changes under section 6.03 of Rev. Proc. 2015-13. The automatic 6-month extension provided in § 301.9100-2 allows a taxpayer that attached the original Form 3115 to its timely filed return until the end of the 6-month extension period to file the Duplicate Copy.

For example, assume a taxpayer files its income tax returns using a calendar year and that taxpayer attached the original Form 3115 to its timely filed 2019 return that was filed on April 2, 2020. That taxpayer could file the Duplicate Copy on August 6, 2020, and will be treated as having complied with section 6.03(1)(a)(i).

Please call (202) 317-7007 if you have any further questions.