

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

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Date:

April 01, 2004

Taxpayer =

B =

C =

D =

E =

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G =

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J =

K =

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M =

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P =

Date 1 =

Date 2 =

Date 3 =

Industry =

Director =

Dear :

This letter responds to a letter dated Date 3, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file copies of four Forms 3115, Application for Change in Accounting Method, with the Internal Revenue Service (IRS) national office.

#### FACTS

On Date 1, Taxpayer timely filed its consolidated federal income tax return for the taxable year ending Date 2, along with signed originals of four Forms 3115 filed under Rev. Proc. 2002-9, 2002-1 C.B. 327, for automatic consent of four different changes in methods of accounting. However, no copies of these four Forms 3115 were filed with the IRS national office until Date 3, because Taxpayer's accountant inadvertently failed to file the copies timely.

Specifically, the changes in methods of accounting made on the four Forms 3115 filed under Rev. Proc. 2002-9 are: (1) a change in depreciation under § 168 of the Internal Revenue Code resulting from a change in classification of certain depreciable property, implemented with a net negative § 481(a) adjustment, filed by Taxpayer on behalf of B through Q; (2) a change in depreciation under § 168 resulting from a change in the classification of certain depreciable property to qualified technological equipment, implemented with a net negative § 481(a) adjustment, filed by Taxpayer on behalf of M, N, and Q; (3) a change in the treatment of the costs of developing computer software under Rev. Proc. 2000-50, 2000-2 C.B. 601, from capitalization and amortization to expensing, implemented on a cut-off basis, filed by Taxpayer on behalf of B and P; and (4) a change in the treatment of certain research and experimental expenditures under § 174 from capitalization and depreciation to expensing when incurred or paid, implemented on a cut-off basis, filed by Taxpayer on behalf of B.

#### LAW AND ANALYSIS

Rev. Proc. 2002-9 provides the procedures by which a taxpayer may obtain automatic consent to change certain methods of accounting. A taxpayer complying with all the applicable provisions of this revenue procedure has obtained the consent of the Commissioner of Internal Revenue to change the taxpayer's method of accounting under § 446(e) and the Income Tax Regulations thereunder.

Section 6.02(3)(a) of Rev. Proc. 2002-9 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2002-9 must complete and file a Form 3115 in duplicate. The original must be attached to the taxpayer's timely filed (including 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 IRS national office 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 a regulatory election. Section 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

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.

Requests for relief under § 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 granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

## CONCLUSIONS

Based solely on the facts and the representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, an extension of time is hereby granted for Taxpayer to file the necessary copy of each of the four Forms 3115 with the IRS national office. This extension of time shall be for a period of 60 calendar days from the date of this letter ruling. Please attach a copy of this letter ruling to the copy of each of the four Forms 3115 when the copy is filed with the IRS national office.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the federal income tax consequences of the facts described above. Specifically, no opinion is expressed or implied concerning (i) whether Taxpayer is qualified to file the four Forms 3115 for the four changes in methods of accounting described above under Rev. Proc. 2002-9; (ii) whether Taxpayer meets the requirements of that revenue procedure for each of the four Forms 3115 described above; or (iii) whether each item of property or expenditure that is the subject of the four Forms 3115 described above meets the requirements of Rev. Proc. 2002-9.

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.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to Taxpayer and Taxpayer's second authorized representative listed. A copy of this letter is also being sent to the Industry Director.

Sincerely yours,

(signed) Heather C. Maloy

HEATHER C. MALOY  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures:

Copy of this letter

Copy for section 6110 purposes