

**Internal Revenue Service**

Number: **200615010**

Release Date: 4/14/2006

Index Number: 9100.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

Telephone Number:

Refer Reply To:

CC:ITA:B03

PLR-138560-05

Date:

December 15, 2005

Parent =

EIN:

Subsidiary =

EIN:

Year X =

Date Y =

Date Z =

Post Office =

Building =

Agency =

Dear :

This is in response to a letter dated February 25, 2005, submitted by your authorized representative, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file, on behalf of Subsidiary, the original Form 3115, Application for Change in Accounting Method, for Year X. The facts, as represented by Parent, are as follows:

Parent timely prepared its consolidated federal corporation income tax return, including the accompanying elections, notices, and certifications, all of which were to be filed on Date Y, the due date for the return plus an automatic six month extension. Parent hired a courier service to deliver its returns to Post Office for mailing on Date Y. The Post Office is located across the street from Building, which was in a state of high security on Date Y as a result of Agency having identified Building as allegedly targeted by terrorists. As a result of a series of unforeseen events arising from this terrorist threat, the courier could not, and did not, timely file Parent's return. The return was filed on the following day, Date Z. Until the morning of Date Z, Parent was unaware of the courier delay. Affidavits submitted substantiate these facts.

Among other required or permitted documents and schedules, Parent's return contained an original Form 3115, Application for Change in Accounting Method, with respect to the capitalization of intangibles (pursuant to § 1.263(a) of the Income Tax Regulations). The copy of Form 3115 was mailed to the IRS National Office on Date Z.

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 set forth the standards to be used by the Commissioner in determining 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.

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 Parent to file the original Form 3115 for a Change in Accounting Method for Subsidiary. In this regard, we will consider the Form 3115 attached to Parent's consolidated federal corporation income tax return for Year X and the copy mailed to the IRS National Office to be timely filed. A copy of this letter ruling should be associated with the Form 3115.

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 Parent is

qualified to file the Form 3115 for the change in method of accounting described above under Rev. Proc. 2002-9; (ii) whether Parent meets the requirements of that revenue procedure for the Form 3115 described above; or (iii) whether each item of property or expenditure that is the subject of the Form 3115 described above meets the requirements of Rev. Proc. 2002-9. Further, this ruling letter does not grant an extension of time for filing Parent's consolidated federal income tax return for Year X.

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

In accordance with the provisions of the power of attorney on file with this office, we are sending a copy of this ruling letter to Parent's authorized representative.

Sincerely,

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CHRISTOPHER F. KANE  
Chief, Branch 3  
Associate Chief Counsel  
(Income Tax & Accounting)

Enclosure:

Copy for 6110 purposes

cc: