

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

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Refer Reply To:

CC:PSI:6

PLR-148120-06

Date:

February 12, 2007

**Re: Request for Extension of Time to file Form 3115, Application for Change in Accounting Method**

Parent =  
Taxpayer =  
A =  
Date1 =  
Date2 =  
Date3 =

Dear :

This letter responds to a letter dated September 29, 2006 submitted by Parent on behalf of Taxpayer requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to file a Form 3115, Application for Change in Accounting Method, with the Parent's consolidated federal income tax return for the taxable year ending Date1 (the A taxable year).

**FACTS**

Parent represents that the facts are as follows:

Taxpayer is a member of an affiliated group of corporations that is headed by Parent and that files consolidated federal income tax returns. Parent timely filed its consolidated federal income tax return for the taxable year ended Date1, on Date2. Pursuant to section 6.02(2)(a) of Rev. Proc. 99-49, 1999-2 C.B. 725, Parent timely filed a copy of a Form 3115 with the Internal Revenue Service (IRS) national office on Date3, but inadvertently did not file the original Form 3115 with its consolidated federal income tax return for the taxable year ending Date1. The copy of the Form 3115 filed with the IRS national office on Date3 was to request a change in the method of accounting for

depreciation of certain assets under the automatic method change procedures of section 2.01 of the Appendix of Rev. Proc. 99-49.

Parent prepared its consolidated federal income tax return for the A taxable year and engaged an accounting firm to review the return. The Form 3115 described above was prepared by the accounting firm. The accounting firm, however, failed to advise Taxpayer that the Form 3115 filed with the IRS national office on Date3 was insufficient to change its method of accounting unless the original of the Form 3115 was also filed with Parent's consolidated federal income tax return.

#### RULING REQUESTED

Taxpayer requests an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to file a Form 3115, Application for Change in Accounting Method, with the Parent's consolidated federal income tax return for the taxable year ending Date1.

#### LAW AND ANALYSIS

Rev. Proc. 99-49, as modified and superseded by Rev. Proc. 2002-9, 2002-1 C.B. 327, provides the procedures by which a taxpayer may obtain automatic consent to change certain methods of accounting. Although Rev. Proc. 99-49 has been modified and superseded by Rev. Proc. 2002-9, the Form 3115 in question was filed when the provisions of Rev. Proc. 99-49 were in effect. A taxpayer complying with all the applicable provisions of this revenue procedure has obtained the consent of the Commissioner to change the taxpayer's method of accounting under § 446(e) of the Internal Revenue Code and the regulations thereunder.

Section 6.02(2)(a) of Rev. Proc. 99-49 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 99-49 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.

Under § 301.9100-1, 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.

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 301.9100-3(a) provides that 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 the grant of relief will not prejudice the interests of the government.

## CONCLUSIONS

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, Parent and Taxpayer are granted 60 calendar days from the date of this letter to file the Form 3115 with an amended consolidated federal tax return for the A taxable year.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the facts described above under any other provisions of the Code. Specifically, no opinion is expressed or implied concerning (i) whether Taxpayer is qualified to file the Form 3115 for the change in method of accounting for depreciation under Rev. Proc. 2002-9; or (ii) whether Taxpayer meets all the requirements of section 2.01 of the Appendix of Rev. Proc. 99-49.

In accordance with the power of attorney, we are sending copies of this letter to Parent's and Taxpayer's authorized representative. We are also sending a copy of this letter to the LMSB Official.

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

Sincerely,

William P. O'Shea

William P. O'Shea  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2):  
copy of this letter  
copy for section 6110 purposes