

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B06
PLR-124606-06
Date:

April 12, 2007

Re: Request for Extension of Time to File Application for Automatic Change of Accounting Method

Taxpayer	=
Subsidiary	=
<u>A</u>	=
<u>B</u>	=
<u>C</u>	=
<u>D</u>	=
<u>E</u>	=
<u>F</u>	=
<u>G</u>	=
<u>H</u>	=
LMSB Official	=

Dear :

This letter responds to a letter dated May 1, 2006, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations for Taxpayer to file an application for automatic change of accounting method under § 168 of the Internal Revenue Code.

According to the information submitted, Taxpayer is a common carrier operating over-the-road tractors and trailers. Taxpayer purchased two companies in A, merging

one into the other, leaving a single subsidiary corporation, Subsidiary. Tires that had been purchased by Subsidiary during the tax year ending B, (prior to the merger) were treated as non-depreciable assets. Tires purchased by Subsidiary in tax years after the merger were depreciated using the same method, recovery period, and convention as the tractor or trailer on which they were first installed, with replacement tires deducted as an expense in the year purchased. On C, Taxpayer discovered that tires purchased during the tax years ending on D, thru E, had never been depreciated. In accordance with Rev. Proc. 2002-9, 2002-1 C.B. 327, Taxpayer sought to file an automatic change of accounting method with respect to the tires. Such a change requires that the Taxpayer attach the original Form 3115 to its tax return for the year of change, and forward a copy of that Form 3115 to the IRS National Office. While Taxpayer forwarded that copy to the National Office, it did not attach the original Form 3115 to its E tax return.

In the course of preparing its tax return for the year ending G, Taxpayer discovered that it had failed to attach the original Form 3115 to its tax return the previous year. Upon advice from its representatives, Taxpayer submitted the request for an extension of time under § 301.9100-3 on May 1, 2006.

Taxpayer represents that it failed to attach the original Form 3115 to its return due to oversight by Taxpayer, that it was advised to do so and at all times intended to comply with Rev. Proc. 2002-9. Upon discovering that it had failed to attach the original Form 3115 to its return, Taxpayer contacted its representatives and this request for relief under § 301.9100-3 was filed.

LAW AND ANALYSIS

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

Section 301.9100-1(b) provides that the term "election" includes an application for relief in respect of tax.

Sections 301.9100-2 and 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. A request 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.

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, Taxpayer's Form 3115 will be considered timely filed for purposes of Rev. Proc. 2002-9. A copy of this letter should be sent to the appropriate service center with a request that it be attached to Taxpayer's tax return for the taxable year ending H. A copy is enclosed for that purpose.

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. In particular, we express no opinion regarding whether Taxpayer's proposed adjustment under § 481 is correct.

We are 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
Associate Chief Counsel
(Passthroughs and Special Industries)

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