

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **200852026**  
Release Date: 12/26/2008

Third Party Communication: None  
Date of Communication: Not Applicable

Index Number: 9100.10-01, 446.14-00,  
448.07-01

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:ITA:B06  
PLR-131126-08

Date:  
September 22, 2008

Legend

Taxpayer =

Preparer =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This letter relates to a private letter ruling request filed on behalf of Taxpayer, requesting an extension of time under § 301.9100-1(c) of the Procedure and Administration Regulations to file a copy of a Form 3115, Application for Change in Accounting Method, for the year beginning Date 1 and ending on Date 2, with the national office as required by § 6.02 of Rev. Proc. 2002-9, 2002-1 C.B. 327. This request was made in accordance with § 301.9100-3.

On Date 3, Taxpayer timely filed its federal income tax return for the taxable year ending Date 2, along with the original of the Form 3115 filed under Rev. Proc. 2002-9, to change Taxpayer's method of accounting from the cash receipts and disbursements

method to an overall accrual method. However, Taxpayer did not file a copy of Form 3115 with the national office as required by Rev. Proc. 2002-9, because Preparer (Taxpayer's accountant) did not inform Taxpayer, either orally or in writing, of the requirement to do so. Taxpayer was unaware of this requirement until Date 4, when Taxpayer's outside counsel engaged in an unrelated matter notified Taxpayer that it could find no proof of Taxpayer's having sent a copy to the national office.

Rev. Proc. 2002-9 provides the procedures by which a taxpayer may obtain automatic consent to change certain methods of accounting. A taxpayer satisfying all applicable requirements of this revenue procedure is deemed to have obtained the consent of the Commissioner to change its method of accounting under § 446(e) of the Internal Revenue Code 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 Form 3115 to two separate locations. 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 signed copy must be filed with the national office no earlier than the first day of the year of change, and no later than the date the original is filed with the federal income tax return.

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 certain regulatory elections. 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.

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 a taxpayer provides evidence to establish to the satisfaction of the Commissioner (1) that the taxpayer acted reasonably and in good faith, and (2) that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

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, we hereby grant an extension of time for Taxpayer to file the necessary copy of the Form 3115 with the national office. This extension shall be for a period of 30 days from the date of this ruling. Please attach a copy of this ruling to the Form 3115.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, such material is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to Taxpayer's authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching to their returns a statement providing the date and control number of the letter ruling.

Sincerely,

ROY HIRSCHHORN  
Senior Technician Reviewer, Branch 6  
Office of Associate Chief Counsel  
(Income Tax & Accounting)