

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201039006**
Release Date: 10/1/2010
Index Number: 9100.00-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B07
PLR-104597-10
Date: July 1, 2010

Re:

Taxpayer =
Subsidiaries =

Date A =

Dear :

This ruling responds to a letter dated December 22, 2009, submitted by Taxpayer on behalf of Subsidiaries, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file a duplicate copy (with signature) of Form 3115, Application for Change in Accounting Method, with the Internal Revenue Service (IRS) national office.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is an S corporation and Subsidiaries are qualified subchapter S subsidiaries of Taxpayer. Taxpayer timely filed its federal income tax return for the taxable year ended Date A. Taxpayer attached to the federal income tax return, an original Form 3115 filed under the automatic procedures of Rev. Proc. 2008-52, 2008-36 I.R.B. 587, as amplified, clarified, and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371. Taxpayer filed Form 3115 to change the method of accounting for certain depreciable property of Subsidiaries.

Taxpayer relied on its accounting firm to file a copy of the Form 3115 (with signature) with the IRS national office. Taxpayer discovered, subsequently, that the copy was not filed with the IRS national office as required by section 6.02(3)(a) of Rev. Proc. 2008-52.

RULING REQUESTED

Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file a copy (with signature) of the Form 3115 at issue with the IRS national office.

LAW AND ANALYSIS

Rev. Proc. 2008-52 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 to change the taxpayer's method of accounting under § 446(e) of the Internal Revenue Code and the regulations thereunder.

Section 6.02(3)(a) of Rev. Proc. 2008-52 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2008-52 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(c), 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(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.

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, Taxpayer is granted 60 calendar days from the date of this letter to file the required duplicate copy (with signature) of the Form 3115 at issue with the IRS national office. Please attach a copy of the ruling to the copy of the Form 3115 when it is filed.

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 whether Taxpayer is qualified to file the Form 3115 for the change in method of accounting for the treatment of certain depreciable property under Rev. Proc. 2008-52, or whether Taxpayer otherwise meets the requirements of Rev. Proc. 2008-52.

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representative. We are also sending a copy of this letter to the appropriate Industry Director, LMSB.

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,

WILLIE ARMSTRONG, JR.
Senior Technical Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

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