

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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TY:

Legend

Subsidiaries =

Taxpayer =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Year A =

Year B =

Dear :

This letter responds to a letter dated _____, submitted by Taxpayer on behalf of Subsidiaries requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file Form 3115, Application for Change in Accounting Method.

FACTS

Taxpayer is the parent corporation of a consolidated group of corporations that includes Subsidiaries. On Date 1, Taxpayer filed a signed duplicate copy of a Form 3115 with the IRS National Office, changing Subsidiaries' method of accounting for repair and maintenance costs pursuant to the automatic consent procedures under section 6.02(3) of Rev. Proc. 2008-52, 2008-36 I.R.B. 587, for the taxable year ending Date 2.

At the time the duplicate Form 3115 was filed with the IRS National Office, the information needed to compute the section 481(a) adjustment was not available. Thus, the Form 3115 filed with the IRS National Office on Date 1 contained a statement that the section 481(a) adjustment was to be determined. Taxpayer subsequently computed the section 481(a) adjustment and on Date 3, Taxpayer timely filed an update duplicate copy of the Form 3115 with the IRS National Office that included the required section 481(a) adjustment.

Taxpayer's Year A and Year B federal income tax returns were under examination at the time the Form 3115 was filed with the IRS National Office. Taxpayer obtained the director's consent to filing the Form 3115 in accordance with section 6.03(4) of Rev. Proc. 2008-52 on Date 4. A copy of the Form 3115 was also provided to the examining agent when Taxpayer filed the duplicate copy with the IRS National Office on Date 1.

On Date 3, Taxpayer filed an additional signed copy of the Form 3115 with the IRS' Ogden, UT office as required by Appendix section 3.06(3) of Rev. Proc. 2008-52.

On Date 5, Taxpayer timely filed its federal income tax return for the taxable year ending Date 2, via electronic filing. The return implemented the change in Taxpayer's method of accounting for repair and maintenance costs as reflected on the Form 3115. Taxpayer relied on one of their employed tax professionals to attach the original Form 3115 to the timely filed federal tax return to complete the filing under the procedures of Rev. Proc. 2008-52. However, Taxpayer later discovered that the signed original of Form 3115 was not attached to the timely electronically filed federal income tax return.

RULING REQUESTED

Accordingly, Taxpayer requests that the Service grant an extension of time to file the signed original Form 3115 in accordance with Rev. Proc. 2008-52, and that the Form 3115 be considered timely-filed under the authority contained in §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

LAW AND ANALYSIS

Rev. Proc. 2008-52, 2008-2 C.B. 587 (as amplified, clarified and modified by Rev. Proc. 2009-39, 2009-2 C.B. 371) provides the procedures by which a taxpayer may obtain

automatic consent to change certain methods of accounting described in the Appendix thereto.

Section 6.02(3) of Rev. Proc. 2008-52 requires a taxpayer making a change under the automatic consent procedures to complete and file an application 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.

Section 6.03(4)(b) of Rev. Proc. 2008-52 provides, in part, that a taxpayer under examination must provide a copy of Form 3115 to the director at the time it files a copy of the application with the IRS National Office.

Appendix section 3.06(3) of Rev. Proc. 2008-52 requires that a taxpayer changing its method of accounting under section 3.06 must send a copy of its completed Form 3115 to the IRS in Ogden, UT.

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 that granting relief will not prejudice the interests of the government.

CONCLUSIONS

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, Taxpayer is granted 60 calendar days from the date of this letter to file the original of the Form 3115 (with signature) in accordance with Rev. Proc. 2008-52.

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 Taxpayer is qualified to file the Form 3115 for the change in method of accounting for repair and maintenance costs under Rev. Proc. 2008-52; or (ii) whether the change in method of accounting that is the subject of such Form 3115 qualifies under section 6.02(3) of Rev. Proc. 2008-52.

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

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, it is subject to verification on examination.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Christopher F. Kane
Branch Chief, Branch 3
(Income Tax & Accounting)

cc: