

ending DateB. However, due to an oversight by Taxpayer's mail room, Taxpayer inadvertently failed to timely file its Federal income tax return and original Form 3115 for the taxable year ending DateB. Thus, the original Form 3115 that accompanied the return was not attached to a timely filed Federal income tax return as required by section 6.02(3)(a) of Rev. Proc. 2008-52. Upon discovery of this oversight, Taxpayer immediately contacted Advisor who instructed Taxpayer to request an extension of time under § 301.9100 of the regulations to file the Form 3115 with Taxpayer's Year1 return.

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 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 tax return for the year of change, and a signed copy 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.

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 301.9100-1(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 301.9100-3(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.

Based solely on the facts and representations submitted, including affidavits, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, an extension of time is hereby granted Taxpayer to file a Form 3115, requesting permission to change its method of accounting for advance payments,

effective for the taxable year ending DateB. In this regard, we will consider the Form 3115 that Taxpayer attached to its Year1 Form 1120 to be timely filed. A copy of this letter should be associated with the Form 3115 that accompanied Taxpayer's Federal income tax return filed for the taxable year ending DateB.

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. Specifically, we express no opinion concerning whether Taxpayer is qualified to file its application for a change in accounting method under Rev. Proc. 2008-52 or that it otherwise meets the requirements of that revenue procedure. This ruling letter does not grant Taxpayer an extension of time for filing Taxpayer's federal income tax return for Year1.

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,

Norma C. Rotunno
NORMA C. ROTUNNO
Senior Technician Reviewer, Branch 2
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: