

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:B01
PLR-110409-11
Date:

August 01, 2011

TY:

Legend

Taxpayer:

Date 1:

Date 2:

Firm:

Dear :

This is in response to a letter dated March 7, 2011, submitted on behalf of Taxpayer, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file an original Form 3115, Application for Change in Accounting Method, as required by section 6.02(3) of Rev. Proc. 2008-52, 2008-2 C.B. 587, for the taxable year ending date 1.

FACTS

On date 2, Taxpayer timely filed a signed duplicate of a Form 3115 with the National Office pursuant to section 6.02(3) of Rev. Proc. 2008-52, applying for consent to change its method of accounting for self-insured employee medical benefits, for the year ending on date 1. Taxpayer had employed Firm to complete its filing for the year ending on date 1. On date 2, Firm timely filed Taxpayer's federal income tax return for the taxable year ending date 1, via electronic filing. The return implemented the change in Taxpayer's method of accounting for self-insured employee medical benefits pursuant to section 19.01 of Rev. Proc. 2008-52, as reflected on the duplicate Form 3115 that was filed with the National Office on date 2. The day after filing, Firm discovered that

the signed original Form 3115 had not been attached to the electronically filed federal income tax return for the tax year ending date 1.

LAW & 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 provisions of that revenue procedure obtains 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 that revenue procedure 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 return 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 the Form 3115 to the director at the same time it files a copy of the application with the National Office of the Internal Revenue Service.

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.

In this instance, Taxpayer timely filed the duplicate Form 3115 with the National Office. Taxpayer implemented the new method of accounting on its tax return for the year of change. However, in an oversight, the tax professional employed by Taxpayer that was charged with completing Taxpayer's application failed to attach the original Form 3115 to Taxpayer's return as required by section 6.02(3) of Rev. Proc. 2008-52.

CONCLUSION

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 Form 3115 in accordance with section 6.02(3) of Rev. Proc. 2008-52.

Except as specifically ruled 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 the propriety of the method of accounting that was actually implemented by Taxpayer, the calculation of any adjustment required by § 481(a), or whether Taxpayer was otherwise qualified to file the Form 3115 for the change in method of accounting under Rev. Proc. 2008-52.

The ruling contained in this letter is 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 a ruling, it is subject to verification on examination.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to the taxpayer's authorized representatives.

Sincerely,

TaJuana Nelson Hyde
Assistant Branch Chief, Branch 1
(Income Tax & Accounting)

CC: Industry Director,

Attachment

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EIN:

2)
EIN:

3)
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