

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Refer Reply To:
CC:ITA:B07
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Date:
March 09, 2012

Parent	=	
<u>S1</u>	=	
Date1	=	
Date2	=	

Dear :

This ruling responds to a letter dated July 21, 2011, and supplemental correspondence, submitted by Parent on behalf of itself and S1 (hereinafter Parent and S1 will be collectively referred to as Taxpayers), requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file the original and signed duplicate copy of Form 3115, *Application for Change in Accounting Method*, pursuant to section 6.02(3)(a) of Rev. Proc. 2008-52, 2008-2 C.B. 587, as amplified, clarified, and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371, for the taxable year beginning Date1 and ending Date2 (year of change).

FACTS

Parent represents the facts are as follows:

Taxpayers are members of an affiliated group of corporations that is headed by Parent and that files consolidated federal income tax returns on a calendar-year basis. Taxpayers use an overall accrual method of accounting.

Due to an unusual series of events, Parent failed to file timely Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, for the taxable year ending on Date2. As a result, Parent filed untimely the Parent group consolidated federal income tax return, along with an original Form 3115 filed under section 6.01 of the Appendix of Rev. Proc. 2008-

52 changing Taxpayers' method of accounting for the amortization of certain amortizable assets, for the taxable year ending on Date2. For the same reason, Parent also filed untimely the signed duplicate copy of the Form 3115 with the Internal Revenue Service (IRS) national office as required by section 6.02(3)(a) of Rev. Proc. 2008-52 for the taxable year ending on Date2.

RULING REQUESTED

Parent requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to file the original and duplicate copy (with signature) of Form 3115 on behalf of Taxpayers, changing Taxpayers' method of accounting for the amortization of certain amortizable assets for the taxable year ending Date2.

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 any 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 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.

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 subject to § 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.

Section 301.9100-3(c)(2) imposes special rules for accounting method regulatory elections. This section provides, in relevant part, that the interests of the Government are deemed to be prejudiced except in unusual and compelling circumstances, if the accounting method regulatory election for which relief is requested requires an adjustment under § 481(a) (or would require an adjustment under § 481(a) if the taxpayer changed to the method of accounting for which relief is requested in a taxable year subsequent to the taxable the election should have been made).

CONCLUSIONS

Based solely on the facts and representations submitted, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, Parent is granted 60 calendar days from the date of this letter (1) to file the original of Form 3115 changing Taxpayers' method of accounting for the amortization of certain amortizable assets under Rev. Proc. 2008-52, with an amended consolidated federal income tax return for the taxable year ending on Date2 and (2) to file the duplicate copy (with signature) of Form 3115 with the IRS national office. Please attach a copy of this letter ruling to the amended return and the duplicate copy of Form 3115 to be filed with the IRS national office.

Except as expressly set forth above, we express no opinion concerning the tax consequences of the facts described above under any other provision of the Code. Specifically, no opinion is expressed or implied concerning whether: (1) Taxpayers are eligible to file the Form 3115 at issue under Rev. Proc. 2008-52; (2) Taxpayers otherwise meet the requirements of Rev. Proc. 2008-52, including those in section 6.01 of the Appendix of Rev. Proc. 2008-52; or (3) Taxpayers' proposed method of accounting described in Form 3115 is a permissible method of accounting. Further, this letter ruling does not grant an extension of time for filing the Parent group consolidated federal income tax return for the taxable year ending Date2.

The rulings contained in this letter are based upon information and representations submitted by Parent 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.

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

In accordance with the power of attorney, we are sending copies of this letter to Taxpayers' authorized representative. We are also sending a copy of this letter to the appropriate operating division director.

Sincerely,

Willie E. Armstrong, Jr.

Willie E. Armstrong, Jr.
Senior Technician Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)