

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact: \_\_\_\_\_, ID No. \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:ITA:B02  
PLR-133187-12

Date:  
December 14, 2012

TY:

Legend

P	=
C	=
Advisor	=
Date1	=
Date2	=
Date3	=
Date4	=
Date5	=
Taxable Year 1	=

Dear \_\_\_\_\_ :

This ruling is in response to a letter dated Date1, submitted on your behalf by your authorized representative. The letter requested an extension of time for P to file on behalf of C a late election to automatically change C's method of accounting for tort liabilities pursuant to the provisions of Rev. Proc. 2011-14, 2011-4 I.R.B. 330, for the taxable year beginning Date2 (year of change). The request to make the late election is based on §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

FACTS

For the Taxable Year1, P engaged Advisor to prepare and file its federal income tax return and a Form 3115, Application for Change in Accounting Method, for C. The advisor represented that on Date4, P timely filed a duplicate copy of a Form 3115 on

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behalf of C with the IRS National office to change the method of accounting for tort liabilities, in accordance with section 6.02(3)(a) of Rev. Proc. 2011-14. Because C was under exam, an additional copy of the Form 3115 was timely provided to the examining agent. On or about Date5, P timely filed its federal income tax return electronically for the taxable year ended Date3, reflecting the change in C's method of accounting for tort liabilities. However, due to an oversight by Advisor, Advisor inadvertently failed to attach the original Form 3115 for C's change in method of accounting for tort liabilities to P's federal income tax return as required by section 6.02(3)(a) of Rev. Proc. 2011-14.

#### APPLICABLE LAW

Rev. Proc. 2011-14 provides the procedures by which a taxpayer may obtain automatic consent to change a method of accounting described in its APPENDIX. 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. 2011-14 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2011-14 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.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner uses to determine whether to grant an extension of time to make a regulatory 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 the term "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 extensions of time for regulatory elections (other than automatic changes covered under § 301.9100-2) 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.

Section 301.9100-3(c)(2) imposes special rules for accounting method regulatory elections. The 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 year the election should have been made).

## CONCLUSION

Based solely on the facts and representations submitted, including affidavits, we conclude that the requirements of §§ 301.9100-1 through 301.9100-3 have been satisfied. Accordingly, an extension of time is hereby granted for P to file an original Form 3115 on behalf of C, requesting permission to change its method of accounting for tort liabilities, with an amended federal income tax return for the taxable year beginning Date2. The extension shall be a period of 30 days from the date of this ruling. Please attach a copy of this ruling to the Form 3115 when it is filed.

Except as expressly provided herein, no opinion is expressed or implied concerning the federal income tax consequences of any aspect of any transaction or item discussed or referenced in this ruling, including whether P and C are eligible to file the Form 3115, whether P and C meet the requirements of Rev. Proc. 2011-14, and whether the proposed method of accounting is a permissible method of accounting.

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 provisions of a power of attorney on file with this office, we are sending a copy of this letter to the taxpayer's authorized representatives.

Sincerely,

R. MATTHEW KELLEY  
Assistant to the Branch Chief, Branch 2  
Office of Associate Chief Counsel  
(Income Tax & Accounting)