

This ruling responds to a letter dated July 12, 2012, submitted by Parent on behalf of seven of its controlled foreign corporations, Foreign Corp 1, 2, 3, 4, 5, 6, and 7 (hereinafter collectively referred to as "CFCs"). Parent requests an extension of time pursuant to §301.9100-3 of the Procedure and Administration Regulations to file the original copy of Form 3115, Application for Change in Accounting Method, to change the CFCs' accounting method for amortization for the taxable year ending Date 1.

FACTS

Parent represents that the facts are as follows:

Parent is the common parent of an affiliated group of corporations that files a consolidated federal income tax return. The CFCs are controlled foreign corporations, as defined in § 957 of the Internal Revenue Code, of Parent. On Date 2, Parent timely filed a signed duplicate copy of a Form 3115 on behalf of the CFCs to change their method of accounting for amortization for the taxable year ended Date 1 (the A taxable year) under section 6.01 of the Appendix of Rev. Proc. 2011-14, 2011-4 I.R.B. 330, with the Internal Revenue Service (IRS) in Ogden, UT (Ogden copy) in accordance with section 6.02(3) of Rev. Proc. 2011-14. Because the CFCs were under audit, Parent also timely provided a copy of the Form 3115 to the appropriate examining agent in accordance with section 6.02(3) of Rev. Proc. 2011-14 subsequent to obtaining the IRS director's consent to file the Form 3115.

On or about Date 3, Parent timely filed the Parent group consolidated federal income tax return for the taxable year ended Date 1 through an electronic filing. Although the electronically filed consolidated federal income tax return reflected a change in the CFCs' method of accounting for amortization, Parent failed to attach the signed original of the Form 3115 reflecting the change in the CFCs' accounting method for amortization with the Parent group consolidated federal income tax return for the A taxable year as required by section 6.02(3) of Rev. Proc. 2011-14.

Parent engaged an accounting firm to prepare and electronically file Parent group consolidated federal income tax return for the A taxable year. Due to miscommunication within the accounting firm, the accounting firm failed to file the original Form 3115 with the electronically filed consolidated federal income tax return. Parent did not discover that the accounting firm inadvertently failed to file the original Form 3115 with the electronically filed consolidated federal income tax return until after the timely filing of the consolidated federal income tax return and the signed duplicate copy of the Form 3115.

RULING REQUESTED

Parent requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to file the original copy of Form 3115 on behalf of its CFCs, changing the CFCs' method of accounting for amortization for the taxable year ending Date 1.

LAW AND ANALYSIS

Rev. Proc. 2011-14 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 of Internal Revenue to change the taxpayer's method of accounting under § 446(e) of the Internal Revenue Code and the Income Tax Regulations thereunder.

Section 6.02(3)(a) of Rev. Proc. 2011-14 provides in general 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 implementing the change in method of accounting for the year of change, and a copy (with signature) of the Form 3115 must be filed with the IRS national office (or if applicable IRS Ogden, UT) 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 6.02(3)(b) of Rev. Proc. 2011-14 provides that in the case of changing the accounting method of a controlled foreign corporation as defined in § 957(a), an original application must be attached to the designated shareholder's (or its common parent's) timely filed (including extension) original federal income tax return for its taxable year with or within which ends the year of change of the foreign corporation, and a copy (with the original signature or a photocopy of the original signature) of the application must be filed with the national office (or, if applicable with the IRS in Ogden, UT) no earlier than the first day of the year of change and no later than the date the designated shareholder (or its common parent) files the original with the designated shareholder's (or its common parent's) federal income tax return for its taxable year with or within which ends the year of change of the foreign corporation.

Section 6.03(4) of Rev. Proc. 2011-14 provides that a taxpayer under examination may change its method of accounting pursuant to Rev. Proc. 2011-14 if the director consents to the filing of a request for an accounting method change. Section 6.02(3)(c) provides that if the taxpayer is under examination with respect to any income tax issue, in all cases the taxpayer (or if section 6.02(3)(b) of Rev. Proc. 2011-14 applies, the designated shareholder) must provide an additional copy of the Form 3115 to the examining agent(s) no later than the date the taxpayer files the national office copy of Form 3115, or if applicable, the Ogden copy, of Form 3115.

Under § 301.9100-1(c), 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 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.

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 to file the original of the Form 3115 changing its CFCs' method of accounting for amortization under Rev. Proc. 2011-14 with an amended consolidated federal income tax return for the taxable year ending Date 1.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal income tax consequences described above under any other provisions of the Code. Specifically, no opinion is expressed or implied concerning (i) whether Parent and its CFCs are qualified to file the Form 3115 for the change in method of accounting for amortization under Rev. Proc. 2011-14; (ii) whether the change in method of accounting that is the subject of such Form 3115 qualifies under section 6.01 of the Appendix of Rev. Proc. 2011-14; or (iii) the propriety of the CFCs' present and proposed methods of accounting for amortization.

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

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

In accordance with the provisions of the power of attorney on file with this office, a copy of this letter is being sent to Parent's authorized representatives. We are also sending a copy of this letter to the appropriate operating division director.

Sincerely yours,

WILLIE E. ARMSTRONG, JR.
Senior Technician Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

cc: