

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-150818-12

Date:
February 04, 2013

TY:

Legend

P	=
C	=
Advisor	=
Date1	=
Date2	=
Date3	=
Taxable Year1	=

Dear _____ :

This ruling is in response to a letter dated Date1, submitted on your behalf by your authorized representative. The letter requests an extension of time for P and its wholly-owned subsidiaries listed on the attachment, ("C"), to file a Form 3115, *Application for Change in Accounting Method*, to automatically change their method of accounting to deduct repair and maintenance costs not required to be capitalized under section 263(a) of the Internal Revenue Code and unit of property determinations for retirements of depreciable tangible property 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 is based on sections 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

FACTS

For the Taxable Year1, C internally prepared its consolidated federal income tax return and engaged Advisor to prepare a Form 3115 to implement the above-referenced

accounting method change. C timely filed Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, for its Taxable Year1 Return, extending the due date for such return to Date3. Due to an unusual series of events, C failed to file by Date3 its Taxable Year1 Return with the attached original Form 3115 filed under section 6.02(3)(a)(i) of Rev. Proc. 2011-14, 2011-4 I.R.B. 330. C represents that the copy of the Form 3115 required to be filed by section 6.02(3)(a)(ii)(B) of Rev. Proc. 2011-14 was timely filed with the Ogden office.

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 section 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. Section 6.02(3)(a)(i) provides that the original must be attached to the taxpayer's timely filed (including extensions) original federal income tax return for the year of change. Section 6.02(3)(a)(ii)(B) provides that for certain applications, a copy of the Form 3115 (with signature) must be filed with the Ogden 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 section 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 sections 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 301.9100-1(b) further provides that an election includes a request to adopt, change, or retain an accounting method.

Section 301.9100-3(a) provides that requests for relief under section 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. Section 301.9100-3(b) and (c) provide standards for determining whether a taxpayer has acted reasonably and in good faith and whether the interests of the Government will be prejudiced if relief is granted.

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 section 481(a) (or would require an adjustment under section 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

The taxpayer's election is a regulatory election, as defined in section 301.9100-1(b), because the due date of the election is prescribed in Rev. Proc. 2011-14. Based solely on the facts and representations submitted, including an affidavit, we conclude that the requirements of section 301.9100-3 have been satisfied. Accordingly, an extension of time is hereby granted for C to file an original Form 3115, requesting permission to change their method of accounting to deduct repair and maintenance costs not required to be capitalized under section 263(a) and unit of property determinations for retirements of depreciable tangible property under Rev. Proc. 2011-14, with an amended consolidated federal income tax return for the taxable year beginning Date2. The extension shall be for a period of 60 days from the date of this letter ruling. Please attach a copy of this letter 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 C is eligible to file the Form 3115 at issue under Rev. Proc. 2011-14, whether C meets the requirements of Rev. Proc. 2011-14, and whether the proposed method of accounting is a permissible method of accounting. Further, this letter ruling does not grant an extension of time for filing C's consolidated federal income tax return for Taxable 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 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 ruling, it is subject to verification on examination.

In accordance with 8.08(2)(a) of Rev. Proc. 2013-1, 2013-1 I.R.B. 1, 33, we are issuing a single letter ruling to the parent corporation that is requesting the identical ruling under section 301.9100 for an extension of time to file a Form 3115 for an identical change in method of accounting for multiple members of a consolidated group.

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,

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

cc: