



3115, Application for Change in Accounting Method, for the taxable year ending Date 1, with government counsel pursuant to section 6.03 of Rev. Proc. 97-27.

**Facts:**

On Date 2, Parent, on behalf of Taxpayers, executed and filed with the IRS National Office a Form 3115 to change its method of accounting for de minimis original issue discount ("OID"). At the time the Form 3115 was submitted, S1 was a party to two pending refund suits before the federal courts. Pursuant to section 6.03 of Rev. Proc. 97-27, Taxpayers should have sent duplicate copies of the Form 3115 to both sets of government counsel. On Date 3, Taxpayers sent a copy of the Form 3115 to their legal counsel representing them in one of the refund suits (Counsel 1). Counsel 1 sent a copy of the Form 3115 to the government counsel for that refund suit and to a second legal counsel representing Taxpayers in the second refund suit (Counsel 2). Taxpayers believed that Counsel 2 would forward a copy of the Form 3115 to the government counsel for the second refund suit. On Date 4, Counsel 2 discovered that he failed to forward a copy of the Form 3115 to the government counsel in the second refund suit and sent a copy of the Form 3115 to the government counsel. Upon learning that the duplicate copy was provided to one set of government counsel on Date 3 and the other set of counsel on Date 4, Taxpayers submitted this request for relief under sections 301.9100-1 and 301.9100-3.<sup>1</sup>

**Law and Analysis:**

Rev. Proc. 97-27 sets forth the general procedures for obtaining the advance consent of the IRS to change a method of accounting. A taxpayer otherwise within the scope of Rev. Proc. 97-27 that is before a federal court with respect to any income tax issue may request a change in method of accounting. Section 6.03 of Rev. Proc. 97-27 requires such taxpayer to provide a copy of the IRS Form 3115 to counsel for the government no later than the date the taxpayer files the original IRS Form 3115 with the IRS National Office.

Under section 301.9100-1(c), 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 a regulatory election. Section 301.9100-1(b) defines a 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 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

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<sup>1</sup> The government counsel in the second refund suit who received the duplicate copy of the Form 3115 on Date 4 has been informed about this private letter ruling requesting 9100 relief and has no objections to its issuance.

301.9100-3 provides extensions of time for making regulatory elections that do not meet the requirements for an automatic extension under section 301.9100-2.

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.

**Conclusion:**

Based solely on the facts and representations submitted, we conclude that the requirements of section 301.9100-3 have been satisfied. Accordingly, Taxpayers are granted an extension of time to provide the additional copy of the Form 3115 to government counsel. Because such additional copy was provided on Date 3 and Date 4, Taxpayers have satisfied the requirements of section 6.03 of Rev. Proc. 97-27 with respect to its Form 3115 filed on Date 2.

The ruling contained in this letter is based upon information and representations submitted by Taxpayers and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted in support of the request for rulings, such material is subject to verification on examination.

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, we express no opinion as to whether Taxpayers qualify to make their change in accounting method under the provisions of Rev. Proc. 2011-14. Nor do we express any opinion as to whether Taxpayers have changed to an appropriate method of accounting.

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 on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

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Andrea M. Hoffenson  
Assistant to the Branch Chief, Branch 1  
Office of Associate Chief Counsel  
(Financial Institutions and Products)

Enclosures:

Copy of this letter  
Copy for section 6110 purposes

cc: