

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201344001**
Release Date: 11/1/2013
Index Number: 9100.00-00

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:B03
PLR-103728-13
Date:
July 23, 2013

TY:

Legend

Tax Advisor =

Tax Preparer =

Taxpayer =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Dear :

This is in response to a letter dated Date 1, submitted on your behalf by your authorized representative requesting an extension of time to attach the original Form 3115, Application for Change in Accounting Method, with the federal income tax return for the taxable year ending Date 2. This request is made in accordance with §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

FACTS

On Date 3, Taxpayer with the assistance of Tax Advisor mailed a Form 3115, Application for Change in Accounting Method, to change its method of accounting for repair and maintenance costs under section 3.06 of the Appendix of Rev. Proc. 2011-14, 2011-1 C.B. 330, for the taxable year ending Date 2 to both the IRS national office and the IRS Ogden, Utah office.

On Date 4, Taxpayer timely and electronically filed its Form 1065, U.S. Return of Partnership Income, for the taxable year ending Date 2. Due to an administrative oversight, Tax Advisor inadvertently failed to scan and attach the original Form 3115 to the federal income tax return as required by section 6.02(3) of Rev. Proc. 2011-14.

On Date 5, Taxpayer discovered through its Tax Preparer, that the original Form 3115 application was not attached to the electronically filed federal income tax return for the year of change. Upon discover of this oversight, Taxpayer immediately contacted Tax Advisor who instructed Taxpayer to request an extension of time under § 301.9100.

APPLICABLE LAW

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 application 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. For Forms 3115 filed under section 3.06 of the Appendix to Rev. Proc. 2011-14, a copy must also be sent to the IRS Ogden, Utah office.

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).

CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter (1) to file the original of Form 3115 changing Taxpayer's method of accounting for repair and maintenance expenses under Rev. Proc. 2011-14, with an amended federal income tax return for the taxable year ending on Date 2 and (2) to file the duplicate copies (with signature) of Form 3115 with the IRS national office and the IRS Ogden, Utah office containing the amount of the adjustment under § 481(a). Please attach a copy of this letter ruling to the amended return and the duplicate copies of Form 3115 to be filed with the IRS national office and IRS Ogden, Utah 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) Taxpayer is eligible to file the Form 3115 at issue under Rev. Proc. 2011-14; (2) Taxpayer otherwise meet the requirements of Rev. Proc. 2011-14, including those in sections 3.06 of the Appendix of Rev. Proc. 2011-14; or (3) Taxpayer's 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 Taxpayer's federal income tax return for the taxable year ending Date 2.

Taxpayer also requested that the user fee be waived because Taxpayer substantially complied with the filing requirements of Rev. Proc. 2011-14. However, Rev. Proc. 2013-1 I.R.B. 1, 67, provides a reduced user fee for ruling requests under § 301.9100-3 that relate to Forms 3115. Therefore, we decline to refund the user fee.

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

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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 representative.

Sincerely,

Sean M. Dwyer
Assistant to the Branch Chief, Branch 3
(Income Tax & Accounting)

cc: