

Internal Revenue Service

Number: **201451008**
Release Date: 12/19/2014
Index Number: 9100.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:B03
PLR-110026-14
Date:
August 20, 2014

TY:

Legend

Taxpayer =

Tax Advisor =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Year A =

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 file duplicate copies of the Forms 3115, Application for Change in Accounting Method, with the IRS Ogden, UT office and the IRS national office, as appropriate, 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 met with Tax Advisor to discuss the filing of two Forms 3115, Application for Change in Accounting Method, to change its method of accounting for software development costs, to be filed under section 9.01 of the Appendix of Rev. Proc. 2011-14, 2011-1 C.B. 330, and prepaid insurance and prepaid hardware and software maintenance contracts, to be filed under section 10.05 of the Appendix of Rev. Proc. 2011-14, 2011-1 C.B. 330 for the taxable year ending Date 2.

On Date 4, Tax Advisor sent an email to Taxpayer, which included completed Forms 3115 and asked Taxpayer to provide signed copies of the Forms 3115. Taxpayer did not provide Tax Advisor with the copies of the Forms 3115 prior to the filing of its Year A federal income tax return. Tax Advisor did not make inquiries of Taxpayer to confirm that the Forms 3115 were filed prior to Taxpayer filing its Year A federal income tax return.

On Date 5, Taxpayer timely and electronically filed its Form 1120, U.S. Corporation Income Tax Return, for the taxable year ending Date 2. Taxpayer attached copies of the Forms 3115 to its consolidated federal income tax return as required by section 6.02(3)(a)(i) of Rev. Proc. 2011-14. However, Taxpayer failed to file a signed duplicate copy of the Form 3115 for software development costs with the IRS Ogden, Utah office and a signed duplicate copy of the Form 3115 for prepaid expenses with the IRS national office as required by section 6.02(3)(a)(ii).

On Date 6, Taxpayer discovered through Tax Advisor, that the duplicate copies of the Forms 3115 were not filed. Upon discovery of this oversight, Taxpayer immediately contacted Tax Advisor who instructed Taxpayer to request an extension of time under section 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 9.01 of the Appendix to Rev. Proc. 2011-14, a copy must be filed with the IRS Ogden, Utah office in lieu of filing the national office copy.

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 year the election should have been made).

CONCLUSIONS

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 to (1) file a signed duplicate copy of the Form 3115 for software development costs with the IRS Ogden, Utah office and (2) file a signed duplicate copy of the Form 3115 for prepaid insurance and prepaid hardware and software maintenance contracts with the IRS national office. Please attach a copy of this letter ruling to the duplicate copies of Form 3115 to be filed with the IRS Ogden, Utah office and the IRS national 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 Forms 3115 at issue under Rev. Proc. 2011-14; (2) Taxpayer otherwise meets the requirements of Rev. Proc. 2011-14; or (3) Taxpayer's proposed methods of accounting described in Forms 3115 are permissible methods of accounting.

The ruling contained in this letter is 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 had 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,

Christopher F. Kane
Branch Chief, Branch 3
(Income Tax & Accounting)