

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201550018**

Release Date: 12/11/2015

Index Numbers: 9100.10-00, 9100.10-01

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:ITA:7

PLR-109588-15

Date:

September 03, 2015

LEGEND

Taxpayer =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

A =

B =

C =

Dear :

This letter ruling responds to a letter dated March 13, 2015, submitted on behalf of Taxpayer. Taxpayer is requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file the original, and the signed, duplicate copy of such original, of the Form 3115, *Application for Change in Accounting Method*, for the taxable year ending Date 1 (the A taxable year).

FACTS

Taxpayer represents the facts are as follows:

Taxpayer files a Form 1065, *U.S. Return of Partnership Income*, on a fiscal year basis that ends on B.

Taxpayer wanted to make a late general asset account election under section 6.32 of the Appendix of Rev. Proc. 2011-14, 2011-4 I.R.B. 330 (designated automatic accounting method change number (DCN) 180), for certain depreciable property , beginning with the taxable year ending Date 1. Thus, in accord with the procedures of Rev. Proc. 2011-14, Taxpayer should have completed the required original of the Form 3115 reflecting the desired accounting method change, and attached this original to Taxpayer's timely filed original Form 1065 for the taxable year ending Date 1. Further, in accord with the procedures of Rev. Proc. 2011-14, Taxpayer also should have timely filed a copy of the original Form 3115, with an original signature or a photocopy of the original signature, with the appropriate office of the Internal Revenue Service. Lastly, Taxpayer's Form 1065 for the taxable year ending Date 1, should have reflected the accounting method change made by Taxpayer.

Taxpayer engaged C, an outside tax consulting firm, to prepare its Form 1065 for the A taxable year. That return was due on Date 2, without extension. Taxpayer could not file its A federal income tax return by Date 2, so it intended to request an extension of the Date 2, due date to Date 3. C met with Taxpayer before Date 2, and provided Taxpayer with a copy of the Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, for the A taxable year. At that meeting, C advised Taxpayer that C would file the Form 7004 electronically with the Service. However, the Form 7004 was not timely filed due to C's inadvertent error. In fact, Taxpayer never filed its Form 7004 for the A taxable year. As a result, when Taxpayer did file its Form 1065 for the A taxable year, on Date 4, the return was late. Taxpayer's late filing of its return for the A taxable year made the original, and the signed, duplicate copy of such original, of the Form 3115, reflecting the late general asset account election (DCN 180), which Taxpayer also filed on Date 4, late.

RULING REQUESTED

Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to file the original, and the signed, duplicate, copy of such original, of the Form 3115 that are required by Rev. Proc. 2011-14 to obtain the consent of the Commissioner of Internal Revenue to make the late general asset account election (DCN 180) 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 accounting methods. A taxpayer complying with all the applicable provisions of this revenue procedure has obtained the consent of the

Commissioner to change its accounting method under § 446(e) and the Income Tax Regulations thereunder.

Section 6.02(3)(a) of Rev. Proc. 2011-14 provides that a taxpayer changing an accounting method 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 any 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 appropriate office of the Service 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.

Generally, a general asset account election must be made by the due date (including extensions) of the federal tax return for the taxable year in which the depreciable property subject to such election is placed in service by the taxpayer and cannot be made by filing a Form 3115. See §§ 1.168(i)-1(l)(2) and 1.168(i)-1(m)(5). However, because of changes made to the general asset account regulations, the Service treated the making of a late general asset account election as a change in method of accounting for a limited period of time (*i.e.*, for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014). Sections 6.32(1)(b) and 6.32(2) of the Appendix of Rev. Proc. 2011-14. A general asset account election made before or after that limited period of time is not a change in method of accounting. Section 6.32(1)(b) of the Appendix of Rev. Proc. 2011-14.

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 that the granting 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 when the accounting method regulatory election for which relief is requested is subject to the procedure described in § 1.446-1(e)(3)(i) or the relief requires an adjustment under § 481(a) (or would require an adjustment under § 481(a) if the taxpayer changed to the

accounting method for which relief is requested in a taxable year subsequent to the taxable year the election should have been made).

CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to:

- (1) file the required original of the Form 3115 making its late general asset account election (DCN 180) for the taxable year ending Date 1, with an amended Form 1065, and
- (2) file the duplicate copy (with signature) of such Form 3115 with the appropriate office of the Service.

Please attach a copy of this letter ruling to the amended return and to the duplicate copy of Form 3115.

This letter ruling does not grant any extension of time for the filing of Taxpayer's Form 7004 or its Form 1065 for the taxable year ending Date 1.

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 or regulations. Specifically, no opinion is expressed or implied concerning whether: (1) the accounting method change Taxpayer has made is eligible to be made under Rev. Proc. 2011-14; (2) Taxpayer otherwise meets the requirements of Rev. Proc. 2011-14 to make accounting method changes using Rev. Proc. 2011-14; (3) any asset subject to Taxpayer's late general asset account election is eligible to be included in a general asset account; (4) Taxpayer's grouping of assets in general asset accounts is correct under § 1.168(i)-1(c)(2); or (5) Taxpayer's depreciation method, recovery period, and convention for any asset are correct.

The ruling contained in this letter ruling is based upon facts and representations submitted by Taxpayer with accompanying penalty of perjury statements executed by appropriate parties. While this office has not verified any of the material submitted in support of this request for an extension of time to file the required Form 3115 reflecting the late general asset account election (DCN 180), all material is subject to verification on examination.

This letter ruling is directed only to Taxpayer, who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representative. We are also sending a copy of this letter to the appropriate operating division director.

Sincerely,

KATHLEEN REED

KATHLEEN REED
Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures (2):
copy of this letter
copy for section 6110 purposes