

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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LEGEND

Taxpayer =
Firm =
Subsidiaries =

Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Sections =
Amount 1 =
Service Center =

Dear :

This letter is in response to a letter dated April 6, 2017, submitted by Taxpayer's representative, Firm, requesting that the Commissioner of Internal Revenue grant Taxpayer and its Subsidiaries an extension of time pursuant to sections 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file Taxpayer's original Form 3115, *Application for Change in Accounting Method*, with its timely filed (including

extension) federal income tax return for the taxable year beginning Date 1 and ending Date 2.

FACTS

Taxpayer, a corporation, is the parent of an affiliated group that files a consolidated Form 1120 on a fiscal Date 3 basis. Taxpayer determined that it was required to file Form 3115 to comply with Sections of the Income Tax Regulations for the taxable year ended Date 2. Taxpayer engaged Firm to assist it in preparing and filing the automatic method changes for the period ending Date 2.

Firm determined that the accounting method change would result in a total net positive section 481(a) adjustment of Amount 1, and the automatic method changes were to be filed in accordance with the procedures in Rev. Proc. 2011-14 and Rev. Proc. 2014-16 under the transition rules provided in Rev. Proc. 2015-13, as modified by Rev. Proc. 2015-33.

On Date 4, Firm, on behalf of Taxpayer, filed a copy of the Form 3115 with Service Center. On Date 5, Taxpayer timely electronically filed its Date 2 return. Taxpayer intended to attach the original Form 3115 to its electronically filed return. Firm was responsible for scanning the original Form 3115 into the electronic return. In preparing the Date 2 return for electronic filing, Firm inadvertently failed to include the Form 3115 with the electronic return that was filed on behalf of Taxpayer.

Firm discovered that the original Form 3115 had not been attached to the electronically filed return during its review of the electronically filed return package. Firm advised Taxpayer to request an extension of time to file the original Form 3115 with Taxpayer's Date 2 return.

Taxpayer represents that it implemented the method changes in the year of change and satisfied all procedural requirements of Rev. Proc. 2011-14 except that it inadvertently failed to attach the original Form 3115 with its timely filed return for the year of change.

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 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 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

extension) 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.

Section 301.9100-1 sets forth the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(b) provides that a regulatory election is 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. Pursuant to 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 301.9100-2 sets forth the rules applicable to automatic 12-month extensions of time to make certain regulatory elections. Section 301.9100-3 sets forth the rules applicable to requests for extensions of time for regulatory elections that do not meet the requirements of section 301.9100-2. Requests for relief pursuant to section 301.9100-3 will be granted when the taxpayer provides evidence (including affidavits described in section 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer:

- (i) requests relief before the failure to make the regulatory election is discovered by the Service;
- (ii) failed to make the election because of intervening events beyond the taxpayer's control;
- (iii) failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election;
- (iv) reasonably relied on the written advice of the Service; or
- (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(b)(3) provides that a taxpayer is deemed to have not acted reasonably and in good faith if the taxpayer:

- (i) seeks to alter a return position for which an accuracy-related penalty has been or could be imposed under section 6662 at the time the taxpayer

- requests relief, and the new position requires or permits a regulatory election for which relief is requested;
- (ii) was informed in all material respects of the required election and related tax consequences, but chose not to file the election; or
 - (iii) uses hindsight in requesting relief.

Section 301.9100-3(c)(1) provides that the Commissioner will grant a reasonable extension of time to make a regulatory election only when the interests of the Government will not be prejudiced by the granting of relief. The interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made (taking into account the time value of money). Section 301.9100-3(c)(1)(i).

The interests of the Government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made or any taxable years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment under section 6501(a) before the taxpayer's receipt of a ruling granting relief under this section. Section 301.9100-3(c)(1)(ii).

Section 301.9100-3(c)(2) provides special rules for accounting method regulatory elections. 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:

- (i) is subject to the procedure described in section 1.446-1(e)(3)(i) of this chapter (requiring the advance written consent of the Commissioner);
- (ii) 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);
- (iii) would permit a change from an impermissible method of accounting that is an issue under consideration by examination, an appeals office, or a federal court and the change would provide a more favorable method or more favorable terms and conditions than if the change were made as part of an examination; or
- (iv) provides a more favorable method of accounting or more favorable terms and conditions if the election is made by a certain date or taxable year.

CONCLUSION

Based solely on the information provided, representations made, and affidavits submitted by Taxpayer and Firm, we conclude that Taxpayer acted reasonably and in

good faith, and granting relief will not prejudice the interests of the Government. Therefore, the requirements of sections 301.9100-1 and 301.9100-3 have been met.

Taxpayer is granted an extension of 60 days from the date of this ruling to file the required original Form 3115 pertaining to the previously described accounting changes for the tax year ending Date 2 with an amended federal income tax return for that year. A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, a taxpayer filing its return electronically may satisfy this requirement by attaching a statement to its return that provides the date and control number of the letter ruling.

CAVEATS

The rulings contained in this letter are based on 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.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of the facts described above under any other provision of the Code or regulations. In particular, no opinion is expressed as to whether the accounting method changes Taxpayer has made are eligible to be made under Rev. Proc. 2011-14 or Taxpayer otherwise meets the requirements of Rev. Proc. 2011-14 to make its accounting method changes using the procedures of Rev. Proc. 2011-14. Further, no opinion is expressed or implied regarding the correctness of Taxpayer's accounting method.

This ruling is directed only to the taxpayer requesting it. Pursuant to section 6110(k)(3), this ruling 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,

Ronald J. Goldstein
Assistant to the Branch Chief, Branch 1
(Income Tax & Accounting)