

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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August 29, 2019

In re: Request For An Extension Of Time To File a Form 3115, Application for Change in Accounting Method

LEGEND

Taxpayer

CPA

A

B

- Year1
- Date1
- Date2
- Date3
- Date4
- Date5
- Date6
- Date7
- Date8
- Date9

Dear :

This responds to a letter dated January 22, 2019, and supplemental correspondence submitted, by Taxpayer requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file an original Form 3115, Application for Change in Accounting Method, with Taxpayer’s timely filed (including extension) federal income tax return for the taxable year ending

Date1.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is a domestic S corporation engaged in the business of A. Taxpayer files a Form 1120S, U.S. Income Tax Return for an S Corporation, on a calendar-year basis. Taxpayer's overall method of accounting is the cash method.

On Date2, Taxpayer engaged CPA to prepare a cost segregation study regarding the acquisition and construction costs pertaining to Taxpayer's properties in several states. The study was to determine the appropriate modified accelerated cost recovery system asset classifications for federal income tax purposes. CPA finalized the report for each location summarizing the segregated assets by asset class, including allocated indirect costs, and computing the corresponding tax depreciation. CPA provided these reports to Taxpayer in Date3. Additionally, CPA provided this information to Taxpayer's former accounting firm for purposes of preparing Taxpayer's federal income tax return for the Year1 taxable year.

At Taxpayer's request, CPA prepared a Form 3115 in accordance with the automatic change procedures of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, and section 6.01 of the List of Automatic Changes revenue procedure (designated automatic change number 7), requesting to change Taxpayer's method of accounting for depreciation. On Date4, CPA provided the completed Form 3115 to Taxpayer with proper filing instructions. Taxpayer's president signed the form, and a copy of the signed Form 3115 was mailed to the Internal Revenue Service in Ogden, UT, prior to the electronic filing of Taxpayer's Year1 federal income tax return. The original completed Form 3115 was sent to Taxpayer's former accounting firm to be attached to Taxpayer's electronically filed Year1 federal income tax return.

On Date7, Taxpayer engaged CPA to: (1) amend Taxpayer's previously filed federal income tax returns for the taxable years ended Date5 (the taxable year prior to the year of change for the Form 3115) and Date1 (the year of change); and (2) prepare Taxpayer's federal income tax return for the taxable year ended Date6 (the taxable year following the year of change).

On Date8, while reviewing Taxpayer's originally filed federal income tax return for the Year1 taxable year for purposes of preparing Taxpayer's amended Year1 federal income tax return, CPA discovered that the original Form 3115 was not attached to the copy of Taxpayer's Year1 federal income tax return. CPA immediately contacted Taxpayer and asked Taxpayer to contact its former accounting firm to ascertain whether the Form 3115 was included as an e-file attachment to Taxpayer's Year1 federal income tax return electronically filed with the IRS.

On Date9, Taxpayer's former accounting firm informed Taxpayer that, due to an oversight, the original Form 3115 was not attached to Taxpayer's electronically filed

Year1 federal income tax return. However, despite Taxpayer's former accounting firm inadvertently failed to attach the Form 3115 to Taxpayer's timely-filed Year1 federal income tax return, such return was prepared consistent with the intended accounting method change as it included the § 481(a) adjustment related to the Form 3115 and the assets in the accounting method change were depreciated consistent with the cost segregation study and the Form 3115.

Taxpayer subsequently engaged CPA to submit this request.

RULING REQUESTED

Taxpayer requests an extension of time under § 301.9100-3 to refile the Year1 federal income tax return with the appropriately attached Form 3115, to be effective as of the date of the originally filed Year1 federal income tax return, to be in compliance with the duplicate filing requirement under section 6.03(1) of Rev. Proc. 2015-13.

LAW AND ANALYSIS

Rev. Proc. 2015-13 provides the procedures by which a taxpayer may obtain automatic consent to change certain accounting methods. Section 9 of Rev. Proc. 2015-13 provides that consent of the Commissioner to change its accounting method under § 446(e) of the Internal Revenue Code and § 1.446-1(e) of the Income Tax Regulations is granted only if the taxpayer complies with all the applicable provisions of the revenue procedure and implements the change in method on its federal income tax return for the requested year of change to which the original Form 3115 is attached pursuant to section 6.03.

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13 provides that a taxpayer changing an accounting method pursuant to Rev. Proc. 2015-13 must complete and file a Form 3115 in duplicate. The original Form 3115 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.

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 301.9100-1(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(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.

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 an extension of 60 calendar days from the date of this letter ruling to file the required original Form 3115 pertaining to the previously described accounting method change for Year1. This filing must be made by Taxpayer filing an amended federal income tax return for that year, and attaching a copy of this letter ruling to the amended return. A copy of this letter is enclosed for that purpose. Alternatively, a taxpayer filing its federal income tax return electronically may satisfy this requirement by attaching a statement to the amended return that provides the date and control number of the letter ruling.

Except as expressly set forth above, we express no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code or regulations. Specifically, no opinion is expressed or implied on whether: (1) the accounting method change Taxpayer has made is (a) eligible to be made under the automatic change procedure of Rev. Proc. 2015-13 or (b) within the scope of section 6.01 of the List of Automatic Changes revenue procedure; or (2) Taxpayer's depreciation method, recovery period, and convention for any asset that is subject to the Form 3115 are correct.

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

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that this ruling may not be used or cited as precedent.

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

Sincerely,

Charles J. Magee

CHARLES J. MAGEE
Senior Counsel, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

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

cc: