

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B06
PLR-109152-20

Date:
September 29, 2020

Legend

Taxpayer =
EIN:

Taxable Year =

X =

Y =

Accounting Firm =

Dear :

This letter is in reply to a request for a private letter ruling made by Taxpayer. Taxpayer initially requested an extension of time under sections 301.9100-1(c) and 301.9100-3 of the Procedure and Administration Regulations to file five Forms 3115, Application For Change in Accounting Method, for Taxable Year. This letter ruling is being issued electronically in accordance with Rev. Proc. 2020-29, 2020-21 I.R.B. 859. A paper copy will not be mailed to Taxpayer.

FACTS

Taxpayer is a corporation that files its Form 1120, U.S. Corporation Income Tax Return, using a fiscal year ending on March 31. Taxpayer represents that it has two separate businesses within the meaning of section 446(d) of the Internal Revenue Code and section 1.446-1(d) of the Income Tax Regulations. Taxpayer states that one business manufactures X. Taxpayer states that the other business involves distributing Y.

Taxpayer engaged Accounting Firm to prepare its Form 1120 and to provide general tax consulting services for Taxable Year. During this engagement, Taxpayer and Accounting Firm had discussions about implementing multiple accounting method changes with this Form 1120.

Taxpayer believed that all five accounting method changes that were initially at issue in this letter ruling were implemented *via* the automatic change procedures of Rev. Proc. 2015-13, 2015-5 I.R.B. 419. Subsequent to the filing of the request for a ruling, Taxpayer withdrew one of its five requests for an extension of time to file a Form 3115.

The remaining four accounting method changes that Taxpayer believes are implemented *via* the automatic change procedures of Rev. Proc. 2015-13, as identified by Taxpayer, are:

1. To change its method for depreciating assets used in its business. Taxpayer “placed assets consisting of tangible personal property and land improvements in service on various dates between March 1, , and January 1, , and owned the assets as of the beginning” of Taxable Year.
2. To change its method for section 263A costs of its Y division “to utilize the simplified resale method.”
3. To change its method for section 263A costs of its X division to “utilize the simplified production method.”
4. To change its method for “product development related payments made to a third party with which Taxpayer has a contract when such payments are nonrefundable and do not guarantee Taxpayer with any future volume of business with the third party under the contract.”

Regarding these four accounting method changes, Taxpayer represents that it timely mailed the required four copies of the Forms 3115 to the appropriate office of the Internal Revenue Service (IRS) as required by Rev. Proc. 2015-13. Taxpayer also represents that it timely provided the four copies of the Forms 3115 to the revenue agent examining its Form 1120 for a previous year. It represents that none of the four accounting methods involved in this letter ruling was or is being questioned by the agent. However, due to an oversight by the Accounting Firm, the original four Forms 3115 were not attached to the Form 1120 timely filed for Taxable Year.

Subsequent to the filing of the Form 1120 for Taxable Year, Accounting Firm discovered that the required Forms 3115 had not been attached to Taxpayer's Form 1120 for Taxable Year. Upon realizing this mistake, Accounting Firm informed Taxpayer and promptly prepared this request for a letter ruling to obtain an extension of time under sections 301.9100-1(c) and 301.9100-3 to file the missing Forms 3115.

Accounting Firm has said that it had prepared Taxpayer's Form 1120 for Taxable Year as if all of the accounting method changes had been properly implemented. Specifically, the Form 1120 was filed as if the proposed methods were in effect for Taxable Year and all appropriate adjustments, for example, those required by section 481(a), were reflected. Further, any and all Forms 1120 filed by Taxpayer subsequent to Taxable Year have been filed by Taxpayer as if the accounting methods had been properly implemented in Taxable Year.

RULING REQUESTED

Taxpayer requests an extension of time for filing the required Forms 3115 for Taxable Year under sections 301.9100-1(c) and 301.9100-3.

LAW AND ANALYSIS

Section 301.9100-1(c) provides that the Commissioner has the discretion to grant a reasonable extension of time under the rules set forth in sections 301.9100-2 and 301.9100-3 to make certain regulatory elections. Section 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by regulations published in the Federal Register, or in a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

The four requested accounting method changes are regulatory elections as defined under section 301.9100-1(b) because the due date of the changes are prescribed in section 1.446-1(e) and section 6.03(3)(a) of Rev. Proc. 2015 -13.

Section 301.9100-2 provides for automatic extensions of time for making certain elections. Section 301.9100-3 provides for extensions of time for making elections that do not meet the requirements of section 301.9100-2. Taxpayer's request for an extension of time must be analyzed under the requirements of section 301.9100-3 because the automatic provisions of section 301.9100-2 are not applicable.

Requests for relief under section 301.9100-3 will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner (i) that the taxpayer acted

reasonably and in good faith and (ii) that granting relief will not prejudice the interest of the government. See section 301.9100-3(a).

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 a regulatory election is discovered by the IRS;
- (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, the taxpayer was unaware of the necessity of the election;
- (iv) reasonably relied on written advice of the IRS; 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 not to have 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 and chose not to file the election; or
- (iii) uses hindsight in requesting relief.

Section 301.9100-3(c)(i) provides that the interests of the government are prejudiced if granting relief would result in the 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). The section also provides that, if the tax consequences of more than one taxpayer are affected by the election, the government's interests are prejudiced if extending the time for making the election may result in the affected taxpayers, in the aggregate, having a lower tax liability than if the election had been timely made.

Section 301.9100-3(c)(1)(ii) provides, in part, that the interests of the government are ordinarily prejudiced if the taxable year in which the regulatory election should be 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.

CONCLUSION

On the basis of Taxpayer's representations, we conclude that the requirements of sections 301.9100-1(c) and 301.9100-3 have been satisfied. Accordingly, we hereby grant an extension of time for Taxpayer to file the original four Forms 3115 that should have been attached to its Form 1120 that was filed for Taxable Year. These Forms 3115 must be identical to the copies of the Forms 3115 that had been filed with the appropriate IRS office and provided to the examining agent. No other revision to the Form 1120 filed for Taxable Year can be made. This extension shall be for a period of 45 days from the date of this letter ruling.

Except as expressly set forth above, this office neither expresses nor implies any opinion concerning any tax consequences arising from the facts described above under any other provision of the Code or regulations. This ruling merely permits Taxpayer to file the original of the four Forms 3115 late. We have no opinion, expressed or implied, on the propriety of Taxpayer's present and proposed methods of accounting for depreciating each asset, or on the propriety of Taxpayer's classification of each asset under section 168(e). We have no opinion, expressed or implied, regarding the application of the simplified resale method or the simplified production method for the Y and X businesses, respectively. Also, we have no opinion, expressed or implied, regarding the propriety of how Taxpayer accounts for product development related payments made to a third party. We have no opinion, expressed or implied, as to whether any of the accounting method changes discussed in this letter ruling should be approved by a director in connection with the examination of Taxpayer's Federal income tax return. If applicable, this relief under sections 301.9100-1(c) and 301.91003, is disregarded for purposes of determining the amounts of all section 965 elements of all United States shareholders of Taxpayer if the relief otherwise would change the amount of any section 965 element of any such United States shareholder. See section 1.965-4(c)(1).

As mentioned, Taxpayer initially requested an extension of time to file five Forms 3115 and one of these five requests was withdrawn. We do not intend to provide any opinion, expressed or implied, regarding the withdrawn request in this letter ruling and no inference shall be drawn as to our views regarding this request or its withdrawal by Taxpayer.

The ruling contained in this letter is 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 this request for an extension of time to file the required original of the Forms 3115, all material is subject to verification on examination.

This 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 on file with this office, a copy of this letter is being sent to each of Taxpayer's authorized representatives.

Sincerely,

Cheryl L. Oseekey
Senior Counsel, Branch 6
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: