

Internal Revenue Service

Department of the Treasury
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LEGEND

Taxpayer =
VP Tax =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =

Dear :

This letter responds to Taxpayer's submission dated July 21, 2021, and subsequent correspondence dated October 20, 2021, requesting a private letter ruling granting relief pursuant to Treas. Reg. §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations. Specifically, Taxpayer requests an extension of time to file Form 3115, Application for Change in Accounting Method, for the taxable year ending on Date 1.

This letter ruling is being issued electronically in accordance with section 7.02(5) of Rev. Proc. 2021-1, 2021-1 I.R.B. 1, 35. A paper copy will not be mailed to Taxpayer.

FACTS

Based on Taxpayer's representations and the affidavit of VP Tax the facts are as follows:

Taxpayer, a domestic corporation, was the common parent of an affiliated group of corporations, set forth in Appendix A, for the taxable year ending on Date 1. Taxpayer is on a calendar year basis and uses an accrual method as its overall method of accounting.

Taxpayer's consolidated Federal income tax return for the taxable year ending on Date 1 was due on Date 3 (without extensions). Taxpayer planned to file Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, before Date 3, as it had done in previous years. Taxpayer's tax department prepared and completed Form 7004 and Taxpayer's senior accountant was instructed to file the form electronically. The senior accountant verbally told Taxpayer that the extension had been filed on or about Date 2, which was before Date 3. However, due to extenuating circumstances related to COVID-19, the extension was not filed.

Taxpayer proceeded as if its federal income tax return was due on Date 5 (the extended deadline) and was not aware that Form 7004 had not been filed. Taxpayer filed its consolidated Federal income tax return for the taxable year ending on Date 1 on or about Date 4 (after Date 3). For the taxable year ending on Date 1, Taxpayer wanted to change its method of accounting under § 451(b)(1)(A) and thus attached to the return Form 3115, which reflected such a change. Taxpayer believed this change in method of accounting could be implemented under the automatic change procedures of Rev. Proc. 2015-13. Taxpayer implemented the change in method of accounting under § 451(b)(1)(A) for the taxable year ending on Date 1.

Sometime after the Date 4 filing, Taxpayer discovered that the Form 7004 was not filed and determined that its return for the taxable year ending on Date 1 was not timely filed (and thus Form 3115 was not timely filed as required). Shortly thereafter, Taxpayer submitted this request seeking relief under Treas. Reg. §§ 301.9100-1 and 301.9100-3. Taxpayer was not under examination for the taxable year ending on Date 1 at the time this request was submitted.

LAW AND ANALYSIS

Rev. Proc. 2015-13, as clarified and modified by Rev. Proc. 2015-33, and as modified by Rev. Proc. 2021-34, by Rev. Proc. 2021-26, by Rev. Proc. 2017-59, and by section 17.02(b) and (c) of Rev. Proc. 2016-1, provides the automatic change procedures and the non-automatic change procedures by which a taxpayer may obtain consent to change its methods of accounting. Pursuant to section 9 of

Rev. Proc. 2015-13, a taxpayer that complies with all the applicable provisions of this revenue procedure and implements the change in method of accounting 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 of Rev. Proc. 2015-13, has obtained the consent of the Commissioner of Internal Revenue to change its method of accounting under § 451(b) and the regulations thereunder.

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13 provides that a taxpayer changing a method of accounting under the automatic change procedures of Rev. Proc. 2015-13 must complete and file a Form 3115 in duplicate. The original must be attached to the taxpayer's timely-filed (including any extensions) federal income tax return for the year of change, and a signed copy of the original Form 3115 must be filed with the appropriate office of the IRS no earlier than the first day of the requested year of change and no later than when the original Form 3115 is filed with the federal income tax return for the requested year of change.

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.

Treas. Reg. § 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, 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, and the professional failed to make, or advise the taxpayer to make, the election.

Under Treas. Reg. § 301.9100-3(b)(3), a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer—

- (i) Seeks to alter a return position for which an accuracy-related penalty could be imposed under § 6662 at the time the taxpayer requests

- relief and the new position requires a regulatory election for which relief is requested;
- (ii) Was fully informed of the required election and related tax consequences, but chose not to file the election; or
 - (iii) Uses hindsight in requesting relief. If specific facts have changed since the original deadline that make the election advantageous to a taxpayer, the Service will not ordinarily grant relief.

Treas. Reg. § 301.9100-3(c) provides that the Service will grant a reasonable extension of time 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.

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 set forth in section 1.446-1(e)(3)(i) of this chapter (requiring 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 in which 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 on the facts and information submitted and the representations made, we conclude that Taxpayer has acted reasonably and in good faith, and that the granting of relief would not prejudice the interests of the Government. Accordingly, Taxpayer has satisfied the requirements for the granting of relief, and Taxpayer is granted an extension of time to file Form 3115 for the taxable year ending on Date 1. Having attached Form 3115 to Taxpayer's late filed consolidated Federal

income tax return for the taxable year ending on Date 1, the filing is hereby deemed to be timely made for Taxpayer and its subsidiaries (listed in Appendix A).

This ruling is based upon facts and representations submitted by the Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party as well as the supporting affidavit of VP Tax. This office has not verified any of the material submitted in support of the request for a ruling. However, as part of an examination process, the Service may verify the factual information, representations, and other data submitted.

This ruling addresses the granting of Treas. Reg. § 301.9100-3 relief to file a Form 3115 requesting a method change for the taxable year ending on Date 1. Specifically, we have no opinion, either express or implied, concerning whether Taxpayer is eligible to make the requested accounting method change or whether Taxpayer properly implemented the requested method change. We express no opinion regarding the tax treatment of the instant transaction under the provisions of any other sections of the Code or regulations that may be applicable, or regarding the tax treatment of any conditions existing at the time of, or effects resulting from, the instant transaction.

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, we are sending a copy of this letter to your authorized representatives.

Sincerely,

Ronald J. Goldstein
Senior Technician Reviewer, Branch 2
(Income Tax & Accounting)

cc:

Appendix A