

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:PSI:6 – PLR-106190-04

Date:

April 14, 2004

Re:

P =

S1 =

S2 =

a =

b =

c =

A =

d =

Industry =

Director =

B =

Dear :

This letter responds to a letter dated December 11, 2003, by P on behalf of S1 and S2 (P, S1, and S2 will be collectively referred to as "Taxpayer"), requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file a copy of a Form 3115, Application for Change in Accounting Method, with the Internal Revenue Service (IRS) national office.

FACTS

Taxpayer is in the business of manufacturing plastic consumer goods and packaging products. Taxpayer's consolidated Form 1120 was timely filed for the a

calendar year on b. Taxpayer intended to change its method of depreciating certain depreciable assets for AMT purposes pursuant to the automatic method change procedure contained in Rev. Proc. 2002-9, 2002-1 C.B. 327. To that end, Taxpayer timely filed the Form 3115 with its consolidated federal tax return for the taxable year ending c.

During a, Taxpayer timely communicated to A its intent to make the accounting method change. Although A reviewed the Form 3115 prepared by Taxpayer, Taxpayer was responsible for filing the original Form 3115 with the a consolidated federal income tax return and for filing a copy of the Form 3115 with the IRS national office.

In the process of filing the a consolidated return, Taxpayer inadvertently failed to file a duplicate copy of the Form 3115 with the IRS national office.

On d, Taxpayer discovered its error and contacted A for assistance in preparing the instant request.

LAW AND ANALYSIS

Rev. Proc. 2002-9 provides the procedures by which a taxpayer may obtain automatic consent to change certain methods of accounting. A taxpayer complying with all the applicable provisions of this revenue procedure has obtained the consent of the Commissioner of Internal Revenue to change the taxpayer's method of accounting under § 446(e) and the Income Tax Regulations thereunder.

Section 6.02(3)(a) of Rev. Proc. 2002-9 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2002-9 must complete and file a Form 3115 in duplicate. The original must be attached to the taxpayer's timely filed (including 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 IRS national office 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(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 a regulatory election. 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.

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.

Requests for relief under § 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 granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

CONCLUSIONS

Based solely on the facts and the representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, an extension of time is hereby granted for Taxpayer to file the necessary copy of the Form 3115 with the IRS national office. Pursuant to a telephone conversation on April 7, 2004, between Taxpayer's authorized representative, B of A, and Charles Magee of this office, we will consider the copy of the Form 3115 attached to the request at issue as properly filed for purposes of section 6.02(3)(a) of Rev. Proc. 2002-9.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the federal income tax consequences of the facts described above. Specifically, no opinion is expressed or implied concerning (i) whether Taxpayer is qualified to file the Form 3115 for the change in method of accounting described above under Rev. Proc. 2002-9; (ii) whether Taxpayer meets the requirements of that revenue procedure for the Form 3115 described above; or (iii) whether each item of property or expenditure that is the subject of the Form 3115 described above meets the requirements of Rev. Proc. 2002-9.

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.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to Taxpayer's authorized representatives. A copy of this letter is also being sent to the Industry Director.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:

- Copy of this letter
- Copy for section 6110 purposes