

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

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CC:ITA:B03
PLR-154803-05

Date:
March 14, 2006

LEGEND:

Taxpayer

Date 1

Date 2 =

Date 3 =

Date 4 =

Dear

This ruling replies to the letter and enclosures requesting an extension of time under section 301.9100-1(c) of the Procedure and Administration Regulations for Taxpayer to file a copy of Form 3115, Application for Change in Accounting Method, with the Internal Revenue Service (IRS) national office. This request was made in accordance with section 301.9100-3.

FACTS

On Date 1, Taxpayer timely filed its consolidated federal income tax return for the tax year ending Date 2 (year of change), along with the original of the relevant Form 3115 filed under Rev. Proc. 2002-9, 2002-1 C.B. 327, to change its method of accounting for advance payments under Rev. Proc. 2004-34, 2004-22 I.R.B. 991. However, Taxpayer inadvertently failed to file a signed duplicate copy of the Form 3115 with the IRS national office on or before the date the original Form 3115 was filed with its return, as required by section 6.02(3)(a) of Rev. Proc. 2002-9. On Date 3, two weeks after the timely filing of the original copy of the Form 3115, the Taxpayer contacted its accounting firm for copies of the certified mail receipts for the Form 1120 and Form 3115. It was

then discovered that the required copy had not been filed with the IRS national office. On Date 4, three weeks after Date 3, Taxpayer's accounting firm filed this 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 to change the taxpayer's method of accounting under section 446(e) of the Internal Revenue Code and the 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 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 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 section 301.9100-2.

Requests for relief under section 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. See section 301.9100-3(a).

CONCLUSION

Based solely on the facts and representations submitted, including affidavits, we conclude that the requirements of sections 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, an extension of time is hereby granted for Taxpayer to file the necessary copy of the Form 3115 with the IRS national office. This extension shall be for a period of 30 days from the date of this ruling. Please attach a copy of this ruling to the Form 3115 when it is filed.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the federal income tax consequences arising from Taxpayer's or its subsidiaries' activities. Furthermore, we express no opinion on whether Taxpayer is qualified to file the Form 3115 under Rev. Proc. 2002-9 and Rev. Proc. 2004-34 or whether the requested change in accounting method meets the requirements of those revenue procedures.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code 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 your authorized representatives.

Sincerely,

Christopher F. Kane
Chief, Branch 3
(Income Tax & Accounting)

cc: