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February 15, 2019

This ruling letter responds to a letter dated July 12, 2018, and subsequent correspondence submitted by your representative on behalf of P, S1, and S2, (collectively, 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* pursuant to section 6.03(1)(a)(i)(A) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, 432, with Parent's timely filed (including

extension) consolidated federal income tax return for Year 1.

FACTS

P represents that the facts are as follows:

P is the common parent and member of an affiliated group of corporations, including S1 and S2, that files consolidated federal income tax returns on a calendar year basis. Taxpayer's overall method of accounting is an accrual method.

For Year 1, Taxpayer intended to change its method of accounting to (i) claim additional first year depreciation under § 168(k) of the Internal Revenue Code for eligible, qualified property, and (ii) correct the recovery period or useful life for depreciating computer software from 60 months to 36 months, as required under § 167(f). The assets subject to the changes were placed in service on various dates between Date 1 and Date 2. The accounting method changes from an impermissible to a permissible method of accounting for depreciation were to be made pursuant to the automatic consent procedures of Rev. Proc. 2015-13 and section 6.01 of Rev. Proc. 2017-30, 2017-18 I.R.B. 1131 (designated automatic change number (DCN) 7).

On Date 3, Taxpayer timely filed a Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, for Year 1, which provided Taxpayer an extension to file their consolidated federal income tax return until Date 4. During Period 1, prior to Date 4, Taxpayer engaged Firm to assist them in the preparation of the Form 3115 under the automatic consent procedures of Rev. Proc. 2015-13 and Rev. Proc. 2017-30, to change Taxpayer's methods of accounting, as described above.

On Date 5, Firm provided to Taxpayer the final Form 3115, including the requisite statements, for filing with the Internal Revenue Service, with a transmittal letter and filing instructions, indicating that in order to make an automatic method change, a copy of the Form 3115 was to be filed with the Internal Revenue Service in Covington, KY (Covington, KY office) and the original, signed form was required to be attached to Taxpayer's consolidated federal income tax return for Year 1.

On Date 6, Taxpayer mailed the copy of the Form 3115 to the Covington, KY office. On Date 7, Taxpayer directly efiled its consolidated federal income tax return for Year 1, but inadvertently failed to attach the original Form 3115 to that return. The consolidated federal income tax return was prepared taking into account the accounting method change described in the Form 3115, including the § 481(a) adjustment that was required in the year of change.

In Period 2, during the Taxpayer's Year 2 financial statement audit, Firm identified that the original of Taxpayer's Form 3115 was not included with the Year 1 return and notified Taxpayer. Taxpayer engaged Firm to submit this request.

RULING REQUESTED

Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to file the original Form 3115 (identical to the copy already filed with the Covington, KY office) that is required by Rev. Proc. 2015-13 to obtain the consent of the Commissioner of Internal Revenue to change the previously described accounting methods for depreciating certain assets under section 6.01 of Rev. Proc. 2017-30 (DCN 7) for Year 1.

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) 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 in Taxpayer's case. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to file the required original of the Form 3115 pertaining to the previously described accounting change for Year 1. This filing must be made by Parent filing an amended consolidated federal income tax return for that year, and attaching a copy of this letter ruling to the amended return. A copy of this letter ruling 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 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, concerning whether: (1) the accounting method changes that Taxpayer has made are eligible to be made under section 6.01 of Rev. Proc. 2017-30 and Rev. Proc. 2015-13; (2) Taxpayer otherwise meets the requirements of Rev. Proc. 2015-13 to make its accounting method changes using the procedures of Rev. Proc. 2015-13; (3) Taxpayer's classification, depreciation method, recovery period or useful life of the computer software under § 167(f) are correct; or (4) Taxpayer's assets are eligible for additional first year depreciation under § 168(k).

The ruling contained in this letter ruling is based upon information and representations submitted on behalf of Taxpayer, with accompanying penalty of perjury statements executed by appropriate parties. 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 Form 3115, 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 Parent's authorized representatives. We also are sending a copy of this letter ruling to the appropriate operating division director.

Sincerely,

DEENA M. DEVEREUX
Senior Technician Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

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