

## Internal Revenue Service

Number: **202223002**

Release Date: 6/10/2022

Index Number: 9100.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:ITA:6

PLR-107371-21

Date:

August 31, 2021

### Legend

Taxpayer =

Date =

X =

Accounting Firm:

Year =

Dear :

This ruling responds to a letter dated March 31, 2021 that requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations for Taxpayer to make the “eligible acquisition transaction election” provided in section 7.03(3)(d) of Rev. Proc. 2015-13, 2015-51 I.R.B. 419. This 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 Limited Liability Company treated as a partnership for federal income tax purposes. It files a Form 1065, *U.S. Return of Partnership Income*, on a calendar year basis. Taxpayer provides health care services for children and adults with autism and related disorders.

On Date, Taxpayer sold a X percent interest in its business to an unrelated limited liability company in a transaction that it says was structured as a taxable purchase and sale of a partnership interest. Prior to this transaction, Taxpayer used the overall cash

receipts and disbursements method of accounting. Taxpayer's purchase and sales agreement stipulated that it would change to an overall accrual method of accounting and would recognize the entire net positive adjustment determined under IRC § 481(a) of the Internal Revenue Code that resulted from the change in accounting method in the year of the sale. The agreement required Taxpayer to timely file a Form 3115, *Application for Change in Accounting Method*, to change to an accrual method. It also required Taxpayer to fulfill the requirements of Rev. Proc. 2015-13 in making the eligible acquisition transaction election, and to allocate all taxable items arising from the election in accordance with IRC § 706.

Taxpayer hired Accounting Firm to prepare its Form 1065 for the year of the sale and, in a separate engagement with the same firm, to prepare its Form 3115 requesting permission to change to an accrual method of accounting. Accounting Firm timely prepared and filed both the Form 1065 and the Form 3115, including the signed copy of the Form 3115 required to be filed with the Internal Revenue Service. Taxpayer also recognized the entire net positive IRC § 481(a) adjustment in the year of change identified by the Form 3115 in accordance with the agreement. Each owner or beneficiary of Taxpayer has completed a statement stating that they have not (or will not) apply the limitation on tax found in IRC § 481(b) and § 1.481-2 of the Income Tax Regulations. However, Accounting Firm failed to prepare or file either of the two election statements specified by section 7.03(d) of Rev. Proc. 2015-13.<sup>1</sup> Accounting Firm discovered this oversight while it was preparing Taxpayer's Form 1065 for the subsequent year. Soon thereafter, this ruling request was submitted.

Taxpayer has disclosed that it was under examination for the year of change identified by the Form 3115 discussed previously. The examiner became aware during the examination that Taxpayer had submitted this request for 9100 relief. However, Taxpayer's accounting method never became an issue in the examination and no changes to the Taxpayer's accounting method were proposed. This examination has closed.

### RULING REQUESTED

Taxpayer is requesting an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to make the eligible acquisition transaction election provided in section 7.03(3)(d) of Rev. Proc. 2015-13 to recognize the entire net positive IRC § 481(a) adjustment that is associated with the change from the cash receipts and disbursements method to an accrual method that is discussed in this ruling.

### LAW

---

<sup>1</sup> One is required to be attached to a taxpayer's original tax return and the other one is required to be filed with the Internal Revenue Service in Washington, DC.

Treas. Reg. §§ 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. Treas. Reg. § 301.9100-2 provides automatic extensions of time for making certain elections. Treas. Reg. § 301.9100-3 provides extensions of time for making elections that do not meet the requirements of Treas. Reg. § 301.9100-2.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make certain regulatory elections.

Treas. Reg. § 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.

Treas. Reg. § 301.9100-3(a) provides that requests for relief under Treas. Reg. § 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.

Treas. Reg. § 301.9100-3(c)(1) 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. The interests of the government are ordinarily prejudiced if the taxable year in which the regulatory election should have been 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.

Treas. Reg. § 301.9100-3(c)(2) provides special rules for accounting method regulatory elections. Treas. Reg. § 301.9100-3(c)(2) provides that the interests of the government are deemed prejudiced, except in unusual or compelling circumstances, if the accounting method regulatory election for which relief is requested is subject to the procedure described in Treas. Reg. § 1.446-1(e)(3)(i), requires an adjustment under IRC § 481(a) (or would require an adjustment under IRC § 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 the election should have been made), 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 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.

Section 6.03(4)(b) of Rev. Proc. 2015-13 provides that “(e)xcept in unusual and compelling circumstances . . . a taxpayer . . . is not eligible to make a late election under (section) 7.03(3)(d) under (Treas. Reg.) §§ 301.9100-1 and 301.9100-3. See

(Treas. Reg.) § 301.9100-3(c)(2) and Rev. Proc. 2014-1 (or successor).”

### CONCLUSION

Based solely on the facts and representations presented, we conclude that Taxpayer has satisfied the requirements of Treas. Reg. §§ 301.9100-1(c) and 301.9100-3. Accordingly, we hereby grant Taxpayer an extension of time to file the eligible acquisition transaction election statements that contains the information required by section 7.03(3)(d) of Rev. Proc. 2015-13. This extension shall be for a period of 45 days from the date of this letter ruling. Filing these two statements is the only change permitted by this ruling to be made to Taxpayer's Form 1065 that it filed for Year.

Except as expressly set forth above, we express no opinion concerning the facts described above under any other provision of the Code or Regulations. Specifically, we express no opinion express or implied concerning: (1) whether Taxpayer is eligible for the accounting method it has made under Rev. Proc. 2015-13; and (2) whether it is eligible to make the eligible transaction election.

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. We have not verified any of the facts or representations submitted with this request. They are subject to verification upon examination.

This ruling is directed only to Taxpayer that requested it. IRC § 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 furnishing a copy of this letter to each of Taxpayer's authorized representatives.

Sincerely,

Cheryl L. Oseekey  
Senior Counsel, Branch 6  
(Income Tax & Accounting)

cc: