

Revenue Procedure 2010-01, Section 9.01(1)

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SECTION 9. WHAT ARE THE SPECIFIC AND ADDITIONAL PROCEDURES FOR A REQUEST FOR A CHANGE IN METHOD OF ACCOUNTING FROM THE ASSOCIATE OFFICES?

This section provides the specific and additional procedures applicable to a request for a change in method of accounting under Rev. Proc. 2008-52, 2008-36 I.R.B. 587, as amplified, clarified and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371 (or any successor), other automatic change request procedures, and Rev. Proc. 97-27, 1997-1 C.B. 680, as amplified and modified by Rev. Proc. 2002-19, 2002-1 C.B. 696, as amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432, as modified by Rev. Proc. 2007-67, 2007-2 C.B. 1072, and as clarified and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371.

A request for a change in method of accounting under Rev. Proc. 2008-52 (or any successor), other automatic change request procedures, or Rev. Proc. 97-27 is a specialized type of request for a letter ruling. *See* section 2.01 of this revenue procedure.

Automatic and advance consent change in method of accounting requests

.01

Automatic change in method of accounting under Rev. Proc. 2008-52, 2008-36 I.R.B. 587 (or any successor), or other automatic change request procedures



(1) Procedures for requesting an automatic change in method of accounting. Certain changes in methods of accounting may be made under automatic change request procedures. A change in method of accounting provided for in an automatic change request procedure must be made using that procedure if the taxpayer requesting the change is within the scope of the procedure and the change is an automatic change for the requested year of the change. The Commissioner's consent to an otherwise qualifying automatic change in method of accounting is granted only if the taxpayer timely complies with the applicable automatic change request procedures. *But see* section 9.19 of this revenue procedure concerning review by an Associate office and a field office. An application filed under Rev. Proc. 2008-52 (or any successor) or other automatic change request procedure and this revenue procedure is hereinafter referred to as an "automatic change request."

See section 9.22 of this revenue procedure for a list of automatic change request procedures. *See* section 9.23 for a list of the sections and Appendices of this revenue procedure in addition to this section 9 that apply to an automatic change request. No user fee is required for a change made under an automatic change request procedure.

Advance consent change in method of accounting under Rev. Proc. 97-27, 1997-1 C.B. 680 (or any successor)

(2) Advance consent letter ruling requests. If a change in method of accounting may not be made under an automatic change request procedure, the taxpayer may request an advance consent letter ruling by filing a current Form 3115, *Application for Change in Accounting Method*, under Rev. Proc. 97-27, 1997-1 C.B. 680, as modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432, as modified by Rev. Proc. 2007-67, 2007-2 C.B. 1072, as clarified and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371 (or any successor); and this revenue procedure. A Form 3115 filed under Rev. Proc. 97-27 and this revenue procedure is hereinafter referred to as an "advance consent Form 3115." A taxpayer filing an advance consent Form 3115 must submit the required user fee with the completed Form 3115. *See* section 15 and Appendix A of this revenue procedure for information about user fees. *See* section 9.23 for a list of the sections and Appendices of this revenue procedure in addition to this section 9 that apply to an advance consent Form 3115.

Ordinarily only one change in method of accounting on a Form 3115 and a separate Form 3115 for each taxpayer and for each separate and distinct trade or business

.02

Ordinarily, a taxpayer may request only one change in method of accounting on a Form 3115. If the taxpayer wants to request a change in method of accounting for more than one unrelated item or submethod of accounting, the taxpayer must submit a separate Form 3115 for each unrelated item or submethod, except in certain situations in which the Service specifically permits certain unrelated changes to be included on a single Form 3115. For an example of such a situation, *see* section 14.03 in the Appendix of Rev. Proc. 2008-52, 2008-36 I.R.B. 587, as amplified, clarified and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371, or its successor.

A separate Form 3115 (and, therefore, a separate user fee pursuant to section 15 and Appendix A of this revenue procedure) must be submitted for each taxpayer and each separate trade or business of a taxpayer, including a qualified subchapter S subsidiary (QSub) or a single-member limited liability company (single member LLC), requesting a change in method of accounting, except as specifically permitted or required in guidance published by the Service. *See*, for example, section 15.07 (4) of this revenue procedure.

Information required with a Form 3115

.03

Facts and other information

(1) Facts and other information requested on Form 3115 and in applicable revenue procedures. In general, a taxpayer requesting a change in method of accounting must file a current Form 3115, unless the procedures applicable to the specific type of change in method of accounting do not require a Form 3115 to be submitted.

To be eligible for approval of the requested change in method of accounting, the taxpayer must provide all information requested on the Form 3115 and in its instructions and in either Rev. Proc. 97-27, or the applicable automatic change request procedure. In addition, the taxpayer must provide all information requested in the applicable sections of this revenue procedure, including a detailed and complete description of the item being changed, the taxpayer's present and proposed method for the item being changed, information regarding whether the taxpayer is under examination, or before Appeals or a Federal court, and a summary of the computation of the § 481 (a) adjustment and an explanation of the methodology used to determine the adjustment.

For an advance consent Form 3115, the taxpayer must also include a full explanation of the legal basis and relevant authorities supporting the proposed method, a detailed and complete description of the facts and explanation of how the law applies to the taxpayer's situation, a discussion of whether the law related to the request is uncertain or inadequately addresses the issue, a statement of the applicant's reasons for the proposed change, and copies of all documents related to the proposed change.

The applicant must provide the requested information to be eligible for approval of the requested change in method of accounting. The taxpayer may be required to provide information specific to the requested change in method of accounting, such as an attached statement. The taxpayer must provide all information relevant to the requested change in method of accounting, even if not specifically requested, including an explanation of all material facts relevant to the requested change in method of accounting.

See also sections 7.01 (1) and 7.01 (8) of this revenue procedure.

Statement of authorities contrary to taxpayer's views

(2) Statement of contrary authorities. For an advance consent Form 3115, the taxpayer is encouraged to inform the Associate office about, and discuss the implications of, any authority believed to be contrary to the proposed change in method of accounting, including legislation, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements.

If the taxpayer does not furnish either contrary authorities or a statement that none exists, the Associate office may request submission of contrary authorities or a statement that none exists. Failure to comply with this request may result in the Associate office's refusal to issue a change in method of accounting letter ruling.

Documents

(3) Copies of all contracts, agreements, and other documents. True copies of all contracts, agreements, and other documents relevant to the requested change in method of accounting must be submitted with an advance consent Form 3115. Original documents should not be submitted because they become part of the Associate office's file and will not be returned.

Analysis of material facts.

(4) Analysis of material facts. When submitting any document with a Form 3115 or in a supplemental letter, the taxpayer must explain and provide an analysis of all material facts in the

document. The taxpayer may not merely incorporate the document by reference. The analysis of the facts must include their bearing on the requested change in method of accounting and must specify the provisions that apply.

Same issue in an earlier return

(5) Information regarding whether same issue is in an earlier return. A Form 3115 must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, any return of the taxpayer (or any return of a current or former consolidated group in which the taxpayer is or was a member) in which the taxpayer used the method of accounting being changed is under examination, before Appeals, or before a Federal court. *See* Rev. Proc. 2008-52 (or any successor), and Rev. Proc. 97-27.

Issue previously submitted or currently pending

(6) Statement regarding prior requests for a change in method of accounting and other pending requests.

(a) Other requests for a change in method of accounting within the past five years. A Form 3115 must state, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, whether the taxpayer (or a related taxpayer within the meaning of § 267 or a member of a current or former affiliated group of which the taxpayer is or was a member within the meaning of § 1504) or a predecessor requested or made within the past five years (including the year of the requested change), or is currently filing, any request for a change in method of accounting.

If the statement is affirmative, for each separate and distinct trade or business, give a description of each request and the year of change and whether consent was obtained. If any application was withdrawn, not perfected, or denied, or if a Consent Agreement was sent to the taxpayer but was not signed and returned to the Associate office, or if the change was not made in the requested year of change, give an explanation.

(b) Any other pending request (s). A Form 3115 must state, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, whether the taxpayer (or a related taxpayer within the meaning of § 267 or a member of a current or former affiliated group of which the taxpayer is or was a member within the meaning of § 1504) or a predecessor currently have pending (including any concurrently filed request) any request for a letter ruling, a change in method of accounting, or a technical advice.

If the statement is affirmative, for each request, give the name (s) of the taxpayer, identification number (s), the type of request (letter ruling, request for change in method of accounting, or request for technical advice), and the specific issues in the request.

Statement identifying pending legislation

(7) Statement identifying pending legislation. At the time the taxpayer files an advance consent Form 3115, the taxpayer must identify any pending legislation that may affect the proposed change in method of accounting. The taxpayer also must notify the Associate office if any such legislation is introduced after the request is filed but before a change in method of

accounting letter ruling is issued.

Authorized representatives

(8) Authorized representatives. To appear before the Service in connection with a request for a change in method of accounting, the taxpayer's authorized representative must be an attorney, a certified public accountant, an enrolled agent, an enrolled actuary, a person with a "Letter of Authorization," an employee, general partner, *bona fide* officer, administrator, trustee, etc., as described in section 7.01 (13) of this revenue procedure.

Power of attorney and declaration of representative

(9) Power of attorney and declaration of representative. Any authorized representative, whether or not enrolled to practice, must comply with Treasury Department Circular No. 230, which provides the rules for practice before the Service, and the conference and practice requirements of the Statement of Procedural Rules, which provide the rules for representing a taxpayer before the Service. *See* section 7.01 (14) of this revenue procedure. A taxpayer should use Form 2848, *Power of Attorney and Declaration of Representative*, to provide the representative's authority.

Penalties of perjury statement

(10) Penalties of perjury statement

(a) Format of penalties of perjury statement. A Form 3115, and any change to a Form 3115 submitted at a later time, must be accompanied by the following declaration: **"Under penalties of perjury, I declare that I have examined this application, including accompanying schedules and statements, and to the best of my knowledge and belief, the application contains all the relevant facts relating to the application, and it is true, correct, and complete."**

See section 9.08 (3) of this revenue procedure for the penalties of perjury statement required for submissions of additional information.

(b) Signature by taxpayer. A Form 3115 must be signed by, or on behalf of, the taxpayer requesting the change by an individual with authority to bind the taxpayer in such matters. For example, an officer must sign on behalf of a corporation, a general partner on behalf of a state law partnership, a member-manager on behalf of a limited liability company, a trustee on behalf of a trust, or an individual taxpayer on behalf of a sole proprietorship. If the taxpayer is a member of a consolidated group, a Form 3115 should be submitted on behalf of the taxpayer by the common parent and must be signed by a duly authorized officer of the common parent. Refer to the signature requirements set forth in the instructions for the current Form 3115 regarding those who are to sign. *See also* section 8.08 of Rev. Proc. 97-27 and section 6.02 (5) of Rev. Proc. 2008-52. A stamped signature or faxed signature is not permitted.

(c) Signature by preparer. A declaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge.

Additional procedural information required in certain circumstances

Recipients of original and copy of correspondence

(1) Recipients of original and copy of change in method of accounting correspondence. The Service will send the signed original of the change in method of accounting letter ruling and other related correspondence to the taxpayer, and copies to the taxpayer's representative, if so instructed on Form 2848. *See* section 7.02 (2) of this revenue procedure for how to designate alternative routing of the copies of the letter ruling and other correspondence.

Expedited handling

(2) To request expedited handling. The Associate offices ordinarily process advance consent Forms 3115 in order of the date received. A taxpayer with a compelling need to have an advance consent Form 3115 processed on an expedited basis may request expedited handling. *See* section 7.02 (4) of this revenue procedure for procedures regarding expedited handling.

Fax of any document to the taxpayer or taxpayer's authorized representative

(3) To receive the change in method of accounting letter ruling or any other correspondence related to a Form 3115 by fax. If the taxpayer wants a copy of the change in method of accounting letter ruling or any other correspondence related to a Form 3115, such as a request for additional information, faxed to the taxpayer or the taxpayer's authorized representative, the taxpayer must submit a written request to fax the letter ruling or related correspondence, preferably as part of the Form 3115. The request may be submitted at a later date, but it must be received prior to the mailing of correspondence other than the letter ruling and prior to the signing of the change in method of accounting letter ruling.

The request to have correspondence relating to the Form 3115 faxed to the taxpayer or taxpayer's authorized representative must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the correspondence is to be faxed.

A document other than the change in method of accounting letter ruling will be faxed by a branch representative. The change in method of accounting letter ruling may be faxed by either a branch representative or the Disclosure and Litigation Support Branch of the Legal Processing Division of the Office of Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DLS).

For purposes of § 301.6110-2 (h), a change in method of accounting letter ruling is not issued until the change in method of accounting letter ruling is mailed.

Requesting a conference.

(4) To request a conference. The taxpayer must complete the appropriate line on the Form 3115 to request a conference, or must request a conference in a later written communication, if an adverse response is contemplated by the Associate office. *See* section 8.10 of Rev. Proc. 97-27, section 10.03 (1) of Rev. Proc. 2008-52, and sections 10.01, 10.02 of this revenue procedure.

Associate office address to which to send Forms 3115

.05 Associate office address to which to send Forms 3115. Submit the original Form 3115, in the case of an advance consent Form 3115, or the national office copy of the Form 3115, in the case of an automatic change request, as follows:

- (a)

Associate office mailing address if private delivery service is not used. If a private delivery service is not used, a taxpayer other than an exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request) to:

Internal Revenue Service

**Attn: [insert either "CC:PA:LPD:DRU" for an
advance consent Form 3115 or "CC:ITA -**

**Automatic Ruling Branch" for an automatic
change request]**

P.O. Box 7604

Benjamin Franklin Station

Washington, DC 20044

An exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request Form 3115) to:

Internal Revenue Service

Tax Exempt & Government Entities

Attn: TEGE:EO

P.O. Box 27720

McPherson Station

Washington, DC 20038

See Rev. Proc. 2010-8, this Bulletin, for the applicable user fee for exempt organization Forms 3115.

- (b)

Mailing address if private delivery service is used. If a private delivery service is used, a taxpayer other than an exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request) to:

Internal Revenue Service

Attn: [insert either "CC:PA:LPD:DRU" for an

advance consent Form 3115 or

"CC:ITA-Automatic Rulings Branch" for an

automatic change request]

Room 5336

1111 Constitution Ave., NW

Washington, DC 20224

If a private delivery service is used, an exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request) to:

Internal Revenue Service

Tax Exempt & Government Entities

Attn: TEGE:EO

1750 Pennsylvania Ave., NW

Washington, DC 20038

See Rev. Proc. 2010-8, this Bulletin, for the applicable user fee for exempt organization Forms 3115.

- (c)

Address if hand-delivered to the IRS Courier's desk. For taxpayers other than an exempt organization, the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request), may be hand delivered between the hours of 8:00 a.m. and 4:00 p.m. to the courier's desk at the loading dock (located behind the 12 Street security station) of 1111 Constitution Ave., NW, Washington, DC. A receipt will be given at the courier's desk. The package should be addressed to:

Courier's Desk

Internal Revenue Service

Attn: CC:PA:LPD:DRU, Room 5336

1111 Constitution Ave., NW

Washington, DC 20224

A Form 3115 must not be submitted by fax

.06 A completed Form 3115 must not be submitted by fax.

Docket, Records, and User Fee Branch receives, initially controls and refers the Form 3115 to the appropriate Associate office

.07 An advance consent Form 3115 is received and controlled by the Docket, Records, and User Fee Branch, Legal Processing Division of the Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DRU) if the required user fee is submitted with the Form 3115. Once controlled, the Form 3115 is forwarded to the appropriate Associate office for assignment and processing.

Additional information required

.08

Incomplete Form 3115.

(1) Incomplete Form 3115.

(a) Advance consent Form 3115 - 21 day rule. In general, for an advance consent Form 3115, additional information requested by the Associate office and additional information furnished to the Associate office by telephone must be furnished in writing within 21 calendar days from the date of the information request. The Associate office may impose a shorter reply period for a request for additional information made after an initial request. *See* section 10.06 of this revenue procedure for the 21-day rule for submitting information after any conference.

(b) Automatic change request - 30 day rule. In general, for an automatic change request, additional information requested by the Associate office, and additional information furnished to the Associate office by telephone or fax, must be furnished in writing (other than a fax) within 30 calendar days from the date of the information request. The Associate office may impose a shorter reply period for a request for additional information made after an initial request. *See* section 10.06 of this revenue procedure for the 21-day rule for submitting information after any conference with the Associate office.

Extension of reply period

(2) Request for extension of reply period.

(a) Advance consent Form 3115. For an advance consent Form 3115, an additional period, not to exceed 15 calendar days, to furnish information may be granted to a taxpayer. Any request for an extension of time must be made in writing and submitted before the end of the original 21-day period. If unusual circumstances close to the end of the 21-day period make a written request impractical, the taxpayer should notify the Associate office within the 21-day period that there is a problem and that the written request for extension will be provided shortly. An extension of the 21-day period will be granted only if approved by a branch reviewer. An extension of the 21-day period ordinarily will not be granted to furnish information requested on Form 3115. The taxpayer will be told promptly, and later in writing, of the approval or denial of the requested extension. If the extension request is denied, there is no right of appeal.

(b) Automatic change request. For an automatic change request, an additional period, not to exceed 30 calendar days, to furnish information may be granted to a taxpayer. Any request for an extension of time must be made in writing and submitted before the end of the original 30-day period. If unusual circumstances close to the end of the 30-day period make a written request impractical, the taxpayer should notify the Associate office within the 30-day period that there is a problem and that the written request for extension will be coming soon. An extension of the 30-day period will be granted only if approved by a branch reviewer. An extension of the 30-day period ordinarily will not be granted to furnish information requested on Form 3115. The taxpayer will be told promptly of the approval or denial of the requested extension. If the extension request is denied, there is no right of appeal.

Penalties of perjury statement for additional information

(3) Penalties of perjury statement. Additional information submitted to the Associate office must be accompanied by the following declaration: "**Under penalties of perjury, I declare that**

I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete." This declaration must be signed in accordance with the requirements in section 9.03 (10) (b) of this revenue procedure.

Identifying information included in additional information

(4) Identifying information. The additional information should also include the taxpayer's name and the case control number and the name, office symbols, and room number of the Associate office representative who requested the information. The Associate office representative can provide the latter information to the taxpayer.

Faxing information request and additional information

(5) Faxing information request and additional information. To facilitate prompt action on a change in method of accounting ruling request, taxpayers are encouraged to request that the Associate office request additional information by fax. *See* section 9.04 (3) of this revenue procedure.

Taxpayers also are encouraged to submit additional information by fax as soon as the information is available. The Associate office representative who requests additional information can provide a telephone number to which the information can be faxed. A copy of the requested information and an original signed penalties of perjury statement also must be mailed or delivered to the Associate office.

Address to which to send additional information

(6) Address to which to send additional information.

(a) Address if private delivery service not used. For a request for change in method of accounting under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting), if a private delivery service is not used, the additional information should be sent to:

Internal Revenue Service

ADDITIONAL INFORMATION

**Attn: [Name, office symbols, and
room number of the Associate office
representative who requested
the information]**

P.O. Box 14095

Ben Franklin Station

Washington, DC 20044

For a request for change in method of accounting for an exempt organization, if a private delivery service is not used, the additional information should be sent to:

Internal Revenue Service

Tax Exempt & Governmental Entities

P.O. Box 27720

McPherson Station

Washington, DC 20038

For any other request for change in method of accounting, if a private delivery service is not used, the additional information should be sent to:

Internal Revenue Service

ADDITIONAL INFORMATION

**Attn: [Name, office symbols, and
room number of the Associate office
representative who requested
the information]**

P.O. Box 7604

Ben Franklin Station

Washington, DC 20044

(b) Address if private delivery service is used.

For a request for a change in method of accounting for other than an exempt organization, if a private delivery service is used, the additional information should be sent to:

Internal Revenue Service

ADDITIONAL INFORMATION

**Attn: [Name, office symbols, and
room number of the Associate office
representative who requested
the information]**

1111 Constitution Ave., NW

Washington, DC 20224

For a request for change in method of accounting for an exempt organization, if a private delivery service is used the additional information should be sent to:

Internal Revenue Service

Tax Exempt & Governmental Entities

1750 Pennsylvania Ave., NW

Washington, DC 20038

Failure to timely submit additional information

(7) If taxpayer does not timely submit additional information.

(a) Advance consent Form 3115. In the case of an advance consent Form 3115, if the required information is not furnished to the Associate office within the reply period, the Form 3115 will not be processed and the case will be closed. The taxpayer or authorized representative will be so notified in writing.

(b) Automatic change request. In the case of an automatic change request, if the required information is not furnished to the Associate office within the reply period, the request does not qualify for the automatic consent procedure. In such a case, the Associate office will notify the taxpayer that consent to make the change in method of accounting is not granted.

(c) Submitting the additional information at a later date. If the taxpayer wants to submit the additional information at a later date, the taxpayer must submit it with a new completed Form 3115 (and user fee, if applicable) for a year of change for which such new Form 3115 is timely filed under the applicable change in method of accounting procedure.

Circumstances in which the taxpayer must notify the Associate office

.09

For an advance consent Form 3115, the taxpayer must promptly notify the Associate office if, after the Form 3115 is filed but before a change in method of accounting letter ruling is issued, the taxpayer knows that -

- (1)
a field office has started an examination of the present or proposed accounting;

- (2)
a field office has started an examination of the proposed year of change;

- (3)
legislation that may affect the change in method of accounting has been introduced, *see* section 9.03 (7) of this revenue procedure; or

- (4)
another letter ruling request (including another Form 3115) has been submitted by the taxpayer (or a related party within the meaning of § 267 or a member of an affiliated group of which the taxpayer is a member within the meaning of §1504).

Determines if proposed method of accounting can be modified to obtain favorable letter ruling

.10 For an advance consent Form 3115, if a less than fully favorable change in method of accounting letter ruling is indicated, the branch representative will tell the taxpayer whether minor changes in the proposed method of accounting would bring about a favorable ruling. The branch representative will not suggest precise changes that materially alter a taxpayer's proposed method of accounting.

Near the completion of processing the Form 3115, advises the taxpayer if the Associate office will rule adversely and offers the taxpayer the opportunity to withdraw Form 3115

.11 Generally, after the conference is held (or offered, in the event no conference is held) and before issuing any change in method of accounting letter ruling that is adverse to the requested

change in method of accounting, the taxpayer will be offered the opportunity to withdraw the Form 3115. *See* section 9.12 of this revenue procedure. If, within 10 calendar days of the notification by the branch representative, the taxpayer or the taxpayer's representative does not notify the branch representative of a decision to withdraw the Form 3115, the adverse change in method of accounting letter ruling will be issued unless an extension is granted. Ordinarily, the user fee required for an advance consent Form 3115 will not be refunded for a Form 3115 that is withdrawn.

Advance consent Form 3115 may be withdrawn or Associate office may decline to issue a change in method of accounting letter ruling

.12

(1) In general. A taxpayer may withdraw an advance consent Form 3115 at any time before the change in method of accounting letter ruling is signed by the Associate office. The Form 3115, correspondence, and any documents relating to the Form 3115 that is withdrawn or for which the Associate office declines to issue a letter ruling will not be returned to the taxpayer. *See* section 9.03 (3) of this revenue procedure. In appropriate cases, the Service may publish its conclusions in a revenue ruling or revenue procedure.

(2) Notification of appropriate Service official. If a taxpayer withdraws, or the Associate office declines to grant (for any reason), a request to change from or to an improper method of accounting, the Associate office will notify, in writing, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return and the Change in Method of Accounting Technical Advisor, and may give its views on the issues in the request to the Service official to consider in any later examination of the return.

If the memorandum to the Service official provides more than the fact that the request was withdrawn and the Associate office was tentatively adverse, or that the Associate office declines to grant a change in method of accounting, the memorandum may constitute Chief Counsel Advice, as defined in § 6110 (i) (1), and may be subject to disclosure under § 6110.

(3) Refund of user fee. Ordinarily, the user fee will not be returned for an advance consent Form 3115 that is withdrawn. *See* section 15.10 of this revenue procedure for information regarding refunds of user fees.

How to check status of a pending Form 3115

.13 The taxpayer or the taxpayer's authorized representative may obtain information regarding the status of an advance consent Form 3115 by calling the person whose name and telephone number are shown on the acknowledgement of receipt of the Form 3115.

Is not bound by informal opinion expressed

.14 The Service will not be bound by any informal opinion expressed by the branch representative or any other Service representative, and such an opinion cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805 (b).

Single letter ruling issued to a taxpayer or consolidated group for qualifying identical change in

method of accounting

.15 For an advance consent Form 3115 qualifying under section 15.07 (4) for the user fee provided in paragraph (A) (5) (b) of Appendix A of this revenue procedure for identical changes in method of accounting, the Associate office generally will issue a single letter ruling on behalf of all affected separate and distinct trades or businesses of a taxpayer, all affected members of the consolidated group, or all eligible and affected CFCs and 10/50 corporations.

Letter ruling ordinarily not issued for one of two or more interrelated items or submethods

.16 If two or more items or submethods of accounting are interrelated, the Associate office ordinarily will not issue a letter ruling on a change in method of accounting involving only one of the items or submethods.

Consent Agreement

.17 Ordinarily, for an advance consent Form 3115, the Commissioner's permission to change a taxpayer's method of accounting is set forth in a letter ruling (original and a Consent Agreement copy). If the taxpayer agrees to the terms and conditions contained in the change in method of accounting letter ruling, the taxpayer must sign and date the Consent Agreement copy of the letter ruling in the appropriate space. The Consent Agreement copy must not be signed by the taxpayer's representative. The signed copy of the letter ruling will constitute an agreement (Consent Agreement) within the meaning of § 1.481-4 (b) of the regulations. The signed Consent Agreement copy of the letter ruling must be returned to the Associate office within 45 calendar days. In addition, a photocopy of the signed Consent Agreement copy of the letter ruling must be attached to the taxpayer's income tax return for the year of change. *See* section 8.11 of Rev. Proc. 97-27. A taxpayer filing its return electronically should attach the Consent Agreement as a PDF file named "Form3115Consent". If the taxpayer has filed its income tax return for the year of change before the ruling has been received and the Consent Agreement has been signed and returned, the photocopy of the signed Consent Agreement copy of the letter ruling should be attached to the amended return for the year of change that the taxpayer files to implement the change in method of accounting.

A taxpayer must secure the consent of the Commissioner before changing a method of accounting for Federal income tax purposes. Treas. Reg. section 1.446-1 (e) (2) (i). For a change in method of accounting requested on an advance consent Form 3115, a taxpayer has secured the consent of the Commissioner when it timely signs and returns the Consent Agreement copy of the letter ruling from the Associate office granting permission to make the change in method of accounting. A taxpayer who timely files an advance consent Form 3115 and takes the requested change into account in its Federal income tax return for the year of change (and any subsequent tax year), prior to receiving the letter ruling granting permission for the requested change, may nevertheless rely on the letter ruling received from the Associate office after it is received, as provided in section 9.19 of this revenue procedure. If, however, the requested change is modified or is withdrawn, denied, or similarly closed without the Associate office having granted consent, taxpayers are not relieved of any interest, penalties, or other adjustments resulting from improper implementation of the change.

A copy of the change in method of accounting letter ruling is sent to appropriate Service official

.18 The Associate office will send a copy of each change in method of accounting letter ruling, whether favorable or adverse, to the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return.

Consent to change a method of accounting may be relied on subject to limitations

.19 A taxpayer may rely on a change in method of accounting letter ruling received from the Associate office, subject to certain conditions and limitations. *See* sections 9, 10, and 11 of Rev. Proc. 97-27, as modified and amplified by Rev. Proc. 2002-19.

A qualifying taxpayer complying timely with an automatic change request procedure may rely on the consent of the Commissioner as provided in the automatic change request procedure to change the taxpayer's method of accounting, subject to certain conditions and limitations. *See generally* sections 6.01, 7 and 8 of Rev. Proc. 2008-52 (or its successor). An Associate office may review a Form 3115 filed under an automatic change request procedure and will notify the taxpayer if additional information is needed or if consent is not granted to the taxpayer for the requested change. *See* section 10 of Rev. Proc. 2008-52 (or its successor). Further, the field office that has jurisdiction over the taxpayer's return may review the Form 3115. *See* section 9 of Rev. Proc. 2008-52.

Change in method of accounting letter ruling will not apply to another taxpayer

.20 A taxpayer may not rely on a change in method of accounting letter ruling issued to another taxpayer. *See* § 6110 (k) (3).

Associate office discretion to permit requested change in method of accounting

.21 The Associate office reserves the right to decline to process any advance consent Form 3115 in situations in which it would not be in the best interest of sound tax administration to permit the requested change. In this regard, the Associate office will consider whether the change in method of accounting would clearly and directly frustrate compliance efforts of the Service in administering the income tax laws. *See* section 8.01 of Rev. Proc. 97-27.

List of automatic change in method of accounting request procedures

.22 For procedures regarding requests for an automatic change in method of accounting, refer to the following published automatic change request procedures. The Commissioner's consent to an otherwise qualifying automatic change in method of accounting is granted only if the taxpayer complies timely with the applicable automatic change request procedure.

The automatic change request procedures for obtaining a change in method of accounting include:

- (1)

Rev. Proc. 2008-52, as amplified, clarified and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371. Rev. Proc. 2008-52 applies to the changes in method of accounting described in the Appendix of Rev. Proc. 2008-52 involving §§ 56, 61, 77, 118, 162, 166, 167, 168,

171, 174, 179B, 181, 194, 197, 263, 263A, 267, 280F, 404, 446, 447, 448, 451, 454, 455, 460, 461, 467, 471, 472, 475, 585, 832, 846, 860A-860G, 861, 985, 1012, 1272, 1273, 1278, 1281, 1363, 1400I, 1400L, 1400N, and former § 168.

- (2)

The following automatic change request procedures, which require a completed Form 3115, provide both the procedures under which a change may be made automatically and the procedures under which such change must be made:

Regs. § 1.166-2 (d) (3) (bank conformity for bad debts);

Regs. § 1.448-1 (to an overall accrual method for the taxpayer's first taxable year it is subject to § 448) (this change may also be subject to the procedures of Rev. Proc. 2008-52);

Regs. § 1.458-1 and -2 (exclusion for certain returned magazines, paperbacks, or records);

Rev. Proc. 97-43, 1997-2 C.B. 494 (section 475-electing out of certain exemptions from securities dealer status); and

Rev. Proc. 91-51, 1991-2 C.B. 779 (section 1286-certain taxpayers under examination that sell mortgages and retain rights to service the mortgages).

- (3)

The following automatic change request procedures, which do not require a completed Form 3115, provide the type of change in method of accounting that may be made automatically and also provide the procedures under which such change must be made:

Notice 96-30, 1996-1 C.B. 378 (section 446-change to comply with Statement of Financial Accounting Standards No. 116);

Rev. Proc. 92-29, 1992-1 C.B. 748 (section 461-change in real estate developer's method for including costs of common improvements in the basis of property sold);

Rev. Proc. 98-58, 1998-2 C.B. 707 (certain taxpayers seeking to change to the installment method of accounting under § 453 for alternative minimum tax purposes for certain deferred payment sales contracts relating to property used or produced in the trade or business of farming);

Regs. § 1.472-2 (taxpayers changing to the last-in, first-out (LIFO) inventory method);

Code § 585 (c) and Regs. §§ 1.585-6 and 1.585-7 (large bank changing from the reserve method of § 585); and

Rev. Proc. 92-67, 1992-2 C.B. 429 (election under § 1278 (b) to include market discount in income currently or election under § 1276 (b) to use constant interest rate to determine accrued market discount).

- (4)

See Appendix E for the list of revenue procedures for automatic changes in accounting period.

Other sections of this revenue procedure that are applicable to a Form 3115

.23 In addition to this section 9, the following sections of this revenue procedure apply to automatic change requests and advance consent Forms 3115:

- 1 (purpose of Rev. Proc. 2010-1);
- 2.01 (definition of "letter ruling");
- 2.02 (definition of "closing agreement"); 2.05 (oral guidance);
- 3.01 (issues under the jurisdiction of the Associate Chief Counsel (Corporate));
- 3.02 (issues under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products));
- 3.03 (issues under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting));

- 3.04 (issues under the jurisdiction of the Associate Chief Counsel (International));
- 3.05 (issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries));
- 3.07 (issues under the jurisdiction of the Deputy Counsel/Deputy Associate Chief (Tax Exempt and Governmental Entities));
- 6.02 (letter rulings ordinarily not issued in certain areas because of the factual nature of the problem);
- 6.05 (letter rulings ordinarily not issued to business associations or groups);
- 6.06 (letter rulings ordinarily not issued where the request does not address the tax status, liability, or reporting obligations of the requester);
- 6.08 (letter rulings ordinarily not issued on Federal tax consequences of proposed legislation);
- 6.10 (letter rulings not issued on frivolous issues);
- 6.12 (letter rulings not issued on alternative plans or hypothetical situation);
- 7.01 (1) (statement of facts and other information);
- 7.01 (8) (statement of supporting authorities);

- 7.01 (13) (authorized representatives);
- 7.01 (14) (power of attorney and declaration of representative);
- 7.02 (2) (power of attorney used to indicate recipient of a copy or copies of a letter ruling or a determination letter);
- 7.02 (4) (expedited handling);
- 7.04 (2) (notify Associate office if a return, amended return, or claim for refund is filed while request is pending and attach request to the return);
- 7.05 (attach letter ruling to the return, amended return or claim for refund);
- 8.01 (receipt and control of the request, and referral to the appropriate Associate office);
- 8.04 (not bound by informal opinion expressed);
- 10 (scheduling conferences);
- 15 (user fees);
- 16 (significant changes to Rev. Proc. 2009-1);
- 17 (effect of Rev. Proc. 2010-1 on other documents);

- 18 (effective date of this revenue procedure);
- Appendix A (schedule of user fees); and
- Appendix E (revenue procedures and notices regarding letter ruling requests relating to specific Code sections and subject matters).