

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.

Telephone Number:

Refer Reply To:

CC:PSI:B01

PLR-102687-14

Date:

July 10, 2014

LEGEND

X =

A =

A's Estate =

B =

C =

D =

E =

E's Estate =

F =

G =

H =

I =

State =

Date1 =

Date2 =

Year =

Dear :

This responds to the letter dated December 26, 2013, and related correspondence, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 754 of the Internal Revenue Code (“Code”).

FACTS

Based on the materials submitted on behalf of X, we understand the relevant facts to be as follows. X was formed as a limited liability company under the laws of State. X is treated as a partnership for Federal tax purposes. A, a partner of X, died on Date1. A's interest passed to A's Estate, and then to B, C, and D. E, another partner of X, died on Date2. E's interest passed to E's Estate, and then to F, G, H, and I.

X inadvertently failed to timely make an election under § 754 for the year of A's death. X represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the government, and that granting relief will not prejudice the interests of the government.

LAW AND ANALYSIS

Section 754 provides that if a partnership files an election, in accordance with regulations prescribed by the Secretary, the basis of partnership property shall be adjusted, in the case of a transfer of a partnership interest, in the manner provided in § 743. Such an election shall apply with respect to all distributions of property by the

partnership and to all transfers of interest in the partnership during the taxable year with respect to which the election was filed and all subsequent tax years. A transfer of an interest in a partnership on the death of a partner is eligible for the section 754 election. The value of the partnership interest reported on the estate tax return (including discounts) is the value used to determine the basis of the partnership interest and the adjustments to basis under sections 743(b) and 754. See generally § 1.1014-3 of the Income Tax Regulations.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under § 754 to adjust the basis of partnership property under §§ 734(b) and 743(b), with respect to a distribution of property to a partner or a transfer of an interest in a partnership, shall be made in a written statement filed with the partnership return for the taxable year during which the distribution or transfer occurs. For the election to be valid, the return must be filed not later than the time prescribed by § 1.6031-1(e) (including extensions thereof) for filing the return for that taxable year.

Under § 301.9100-1(c), the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as including an election whose deadline is prescribed by a regulation published in the Federal Register.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely upon the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 120 days following the date of this letter to make an election under § 754 effective for its Year taxable year and thereafter. The election should be made in a written statement filed with the appropriate service center. A copy of this letter should be attached to the § 754 election. A copy is enclosed for that purpose.

This ruling is contingent on X adjusting the basis of its properties to reflect any § 734(b) or § 743(b) adjustments that would have been made if the § 754 election had been timely made. These basis adjustments must reflect any additional depreciation that would have been allowable if the § 754 election had been timely made, regardless of whether the statutory period of limitation on assessment or filing a claim for refund has expired for any year subject to this grant of late relief. Any depreciation deduction allowable for an open year is to be computed based upon the remaining useful life and using property basis as adjusted by the greater of any depreciation deduction allowed or allowable in any prior year had the § 754 election been timely made. Additionally, the partners of X must adjust the basis of their interests in X to reflect what that basis would be if the § 754 election had been timely made, regardless of whether the statutory period of limitation on assessment or filing a claim for refund has expired for any year subject to this grant of late relief. Specifically, the partners of X must reduce the basis of their interests in X in the amount of any additional depreciation that would have been allowable if the § 754 election had been timely made.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the tax consequences of any facts discussed or referenced in this letter.

This ruling is directed only to the taxpayer who requested it. Section 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, a copy of this letter ruling will be sent to your authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: *David R. Haglund*
David R. Haglund
Chief, Branch 1
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter
Copy of this letter for section 6110 purposes

cc: