

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:2 - PLR-115776-99

Date:

January 21, 2000

Partnership =

A =

B =

D1 =

Year 1 =

Dear :

This letter responds to your letter dated September 21, 1999, and subsequent correspondence, submitted on behalf of Partnership, requesting that the Service grant Partnership an extension of time to make an election under § 754 of the Internal Revenue Code.

A, a partner in Partnership, died on D1 of Year 1. B, Partnership's managing member, represents that Partnership is classified as a partnership for federal tax purposes. Partnership's tax return for the Year 1 taxable year was filed without a § 754 election.

Section 754 of the Code provides that a partnership may elect to adjust the basis of partnership property in the case of a distribution of property or in the case of a transfer of a partnership interest. The election applies with respect to all distributions of property by the partnership and to all transfers of interests in the partnership during the taxable year with respect to which such election was filed and all subsequent taxable years.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under § 754 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 for filing the return for such taxable year, including extensions thereof.

Section 1.754-1(b) refers to § 1.9100-1 (now § 301.9100 of the Procedure and Administration Regulations) for rules regarding extensions of time for filing elections.

Section 301.9100-1(c) provides that the Commissioner has the discretion to grant a reasonable extension of the time, under the rules set forth in §§ 301.9100-2 and 301.9100-3, to make a regulatory election. Section 301.9100-1(b) defines "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 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 sets forth 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. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

In this case, the requirements of § 301.9100-3 have been met. Consequently, Partnership is granted an extension of time for making an election under § 754 until 60 days following the date of this letter. The election should be made in a written statement filed with the District Director for association with Partnership's tax return. A copy of this letter should be attached to the statement filed with the District Director. Enclosed is a copy for that purpose.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transaction described above under any other provision of the Code. Specifically, no opinion is expressed concerning whether Partnership is, in fact, a partnership for federal tax purposes.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter will be forwarded to Partnership.

Sincerely yours,

PAUL F. KUGLER
Assistant Chief Counsel
(Passthroughs and Special
Industries)

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes