

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:B01 PLR-100908-01
Date:
April 18, 2001

Legend

X =

A =

Trust =

State =

D1 =

D2 =

Year =

:

This responds to the letter dated November 9, 2000, and additional information submitted on behalf of X, requesting an extension of time pursuant to § 301.9100-3(a) of the Procedure and Administration Regulations to file an election under § 754 of the Internal Revenue Code.

FACTS

According to the information submitted, X was organized on D1 as a State limited liability company. X is classified as a partnership for federal tax purposes. A, through Trust (a grantor trust), was a member of X. A died on D2. X inadvertently failed to timely file a § 754 election.

LAW AND ANALYSIS

Section 754 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 the election is 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 the taxable year, including extensions thereof.

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

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in § 301.9100-3 to make a regulatory election. Section 301.9100-1(b) defines a regulatory election to include an election whose due date is prescribed by a regulation published in the Federal Register.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government. Section 301.9100-3(a).

CONCLUSION

Based upon the information submitted, X has met the requirements of §§ 301.9100-1 and 301.9100-3, and is granted an extension of time for making the election under § 754 effective for Year until 60 days following the date of this letter. The election should be made in a written statement filed with the director for association with X's Year return. A copy of this letter should be attached to the statement.

The ruling in this letter is based on information and representations submitted by taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

Except for the specific ruling above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the Code. Section 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that taxpayer is otherwise eligible

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to make the election.

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 in this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

/s/Paul F. Kugler
PAUL F. KUGLER
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes