

Internal Revenue Service

Department of the Treasury
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Date:

February 22, 2006

Trust =

A =

Charities =

Date 1 =

Date 2 =

Year 1 =

Year 2 =

Year 3 =

Dear :

This letter responds to a letter dated October 10, 2005, and subsequent correspondence, submitted on behalf of Trust by its authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make elections under § 642(c)(1) of the Internal Revenue Code for its Year 1 and Year 2 taxable years.

The information submitted states that A, the grantor of Trust, died on Date 1. Trust provides for bequests to Charities upon Grantor's death. On the income tax return filed for Trust for Year 1, a charitable deduction was claimed for amounts set aside from Trust's gross income for Charities. In Year 2, the exact amounts set aside for Charities

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in Year 1 were actually distributed to them. An election under § 642(c)(1), however, was not filed for Trust for the Year 1 taxable year.

On the income tax return filed for Trust for Year 2, a charitable deduction was again claimed for amounts set aside from Trust's gross income for Charities. In Year 3, an amount less than the amount claimed as a charitable deduction on the income tax return for Year 2, was distributed to Charities. On Date 2, the income tax return filed for Trust for Year 2 was amended to reduce the charitable deduction claimed on that return to the amount actually distributed in Year 3. An election under § 642(c)(1), however, was not included in the amended return filed on Date 2.

Section 642(c) provides that in the case of an estate or trust, there shall be allowed as a deduction in computing its taxable income any amount of the gross income without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the taxable year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary prescribes by regulation.

Section 1.642(c)-1(b)(2) of the Income Tax Regulations provides that the election under section 642(c)(1) shall be made not later than the time, including extensions thereof, prescribed by law for filing the federal income tax return for the succeeding taxable year.

Section 1.642(c)-1(b)(3) provides that the election shall be made by filing with the income tax return (or amended return) for the taxable year in which the contribution is treated as paid a statement which (i) states the name and address of the fiduciary, (ii) identifies the estate or trust for which the fiduciary is acting, (iii) indicates that the fiduciary is making an election under section 642(c)(1) in respect of contributions treated as paid during such taxable year, (iv) gives the name and address of each organization to which any contribution is paid, and (v) states the amount of each contribution and date of actual payment, or if applicable, the total amount of contributions paid to each organization during the succeeding taxable year, to be treated as paid in the preceding taxable year.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make regulatory elections under the rules of §§ 301.9100-2 and 301.9100-3. Under § 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice or an announcement published in the Internal Revenue Bulletin.

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Section 301.9100-3 sets forth the standards which the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner should grant relief when the taxpayer provides evidence proving 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.

Based on the information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. As a result, Trust is granted an extension of time for 60 days from the date of this letter to file elections under § 642(c) for Trust's Year 1 and Year 2 taxable years. The amended returns must be filed within the 60 day period with the service center where Trust files its returns. A copy of this letter should be attached to the amended returns.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code.

This ruling is directed only to the taxpayer requesting it. 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 is being sent to Trust's authorized representative.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs & Special Industries)

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