

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:PSI:2 – PLR-141405-05

Date:

September 01, 2006

Legend

X:

Y:

State:

a%:

Year 1:

Year 2:

Dear :

This responds to a letter dated June 13, 2005, and subsequent correspondence submitted on behalf of X, requesting that the Service grant X an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 754 of the Internal Revenue Code.

Facts

The information submitted states that X is a State limited partnership. Y is the sole managing general partner of X and owns the majority of the limited partnership interests in X. Limited partners in X own a% of X. Limited partners who wish to redeem

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their interests in X are redeemed with cash or shares of Y, a publicly traded corporation. Limited partnership interests in X were redeemed in Year 1. X's partnership return was timely filed for Year 1, but a § 754 election to adjust the basis of partnership property was inadvertently not filed with the return.

Law and Analysis

Section 754 provides that if a partnership files an election, in accordance with the regulations prescribed by the Secretary, the basis of partnership property is adjusted, in the case of a distribution of property, in the manner provided in § 734 and, 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 interests in the partnership during the taxable year with respect to which the election was filed and all subsequent taxable years.

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.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term "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.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election.

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. 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 the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

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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 sixty (60) days following the date of this letter to make a § 754 election effective Year 1. The election should be made in a written statement filed with the applicable service center for association with X's amended Year 1 return. A copy of this letter should be attached to the statement filed.

As a condition for this late election relief, X and the partners of X must amend their federal income tax returns for Year 1 and Year 2 consistent with X having made a timely § 754 election effective Year 1. Furthermore, X may not adjust the basis of property and the partners of X may not adjust their basis in X to reflect any additional adjustments that would have been allowed or allowable if the § 754 election had been made in an earlier year.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the transactions described above under any other provision of the Code. Specifically, we express no opinion as to whether or not X is a partnership for federal tax purposes.

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(s) 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 X's authorized representative.

Sincerely,

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

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes