

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.
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Refer Reply To:
CC:PSI:B01
PLR-107299-11
Date:
June 03, 2011

Legend

Trust =

Trustee =

Year1 =

Year2 =

X =

Dear :

This responds to a letter dated February 16, 2011, 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 an election under § 642(c)(1) of the Internal Revenue Code.

FACTS

The information submitted states that Trust made a charitable contribution in Year2 in the amount of X. Trustee intended to make an election to treat the charitable contribution as paid in Year1. However, Trustee failed to make the election.

LAW AND ANALYSIS

Section 642(c)(1) provides that in the case of an estate or trust (other than a trust meeting the specifications of subpart B), there shall be allowed as a charitable deduction in computing its taxable income (in lieu of the deduction allowed by § 170(a), relating to deduction for charitable, etc., contributions and gifts) 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 § 170(c) (determined without regard to § 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee 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)(1) provides that for purposes of determining the deduction allowed under paragraph (a) of this section, the fiduciary (as defined in § 7701(a)(6)) of an estate or trust may elect under § 642(c)(1) to treat as paid during the taxable year (whether or not such year begins before January 1, 1970) any amount of gross income received during such taxable year or any preceding taxable year which is otherwise deductible under such taxable year or any preceding taxable year and which is paid after the close of such taxable year but on or before the last day of the next succeeding taxable year of the estate or trust. The preceding sentence applies only in the case of payments actually made in a taxable year which is a taxable year beginning after December 31, 1969. No election shall be made, however, in respect of any amount which was deducted for any previous taxable year or which is deducted for the taxable year in which such amount is paid.

Section 1.642(c)-1(b)(2) provides that the election under § 1.642(c)-b(1) shall be made not later than the time, including extensions thereof, prescribed by law for filing the income tax return for the succeeding taxable year. Such election shall, except as provided in § 1.642(c)-1(b)(4), become irrevocable after the last day prescribed for making it. Having made the election for any taxable year, the fiduciary may, within the time prescribed for making it, revoke the election without the consent of the Commissioner.

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 § 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) 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 301.9100-2 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. 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.

CONCLUSION

Based solely 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 of 120 days from the date of this to file an election under § 642(c) to claim a deduction in Trust's Year1 taxable year for charitable contributions made in Year2. The election must be made on the amended return for the Trust's Year1 taxable year. The amended return for Year1 must be filed within the 120 period with the service center where Trust files its returns. A copy of this letter should be attached to the amended return.

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. Specifically, we express or imply no opinion as to how much of X constitutes gross income deductible under § 642(c).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code 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 is being sent to your authorized representative.

Sincerely,

David R. Haglund

David R. Haglund
Chief, Branch 1
(Passthroughs & Special Industries)

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

cc: