

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:01

PLR-138694-14

Date:

January 20, 2015

Legend

X =

State =

Year =

A =

B =

Dear :

This responds to a letter dated October 14, 2014, and subsequent correspondence submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to make an election under § 754 of the Internal Revenue Code.

FACTS

According to the information submitted, X was formed as a limited liability company under the laws of State and is classified as a partnership for federal tax purposes. The members of X at the time of formation were A and B. In Year, A purchased a percentage of B's interest in X. X relied on its tax advisor when preparing returns for Year, and the advisors did not inform X as to the availability of an election under § 754. Therefore, X inadvertently failed to timely file a § 754 election for Year. X represents that it acted reasonably and in good faith, that granting relief will not prejudice the interest of the government, and that it is not using hindsight in making this election. X

further represents that neither it nor any other parties involved are under audit for the year in question.

LAW & ANALYSIS

Section 754 provides that if a partnership files an election, in accordance with the regulations prescribed by the Secretary, the basis of the partnership property is adjusted, 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 therefore) for filing the return for the 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 item “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 301.9100-1 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 § 301.9100-3. 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 §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 120 days from the date of this letter to make an election under § 754 effective for Year and thereafter. The election should be made

in a written statement filed with the appropriate service center for association with X's Year return. A copy of this letter should be attached to the election.

X must calculate the adjustments under § 734(b) and (c), and § 1.755-1(c), as if X had timely made the § 754 election and allocated the increase in basis among the properties held by X at that time. If the statutory period of limitation on assessment or filing a claim for refund has expired for any year subject to this grant of late relief, then A and B must reduce their respective basis of their interests in X to reflect any additional basis adjustments under section 734 that would have been allocated under section 755 to any properties sold in such years as if the section 754 election had been timely.

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 Internal Revenue Code and the regulations thereunder.

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, copy of this letter is being sent to X's authorized representatives.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

Laura C. Fields

Laura C. Fields
Senior Technician Reviewer, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)