

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201934002**
Release Date: 8/23/2019

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 754.00-00, 754.02-00,
9100.00-00, 9100.15-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-131385-18

Date:
May 16, 2019

LEGEND

X =

Trust 1 =

Trust 2 =

A =

B =

C =

State =

Date 1 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Dear :

This letter responds to a letter dated October 15, 2018, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 754 of the Internal Revenue Code (Code).

FACTS

The information submitted states that X is a State limited partnership formed on Date 1. As of Year 1, X's partners were Trust 1, A's revocable trust, and Trust 2, B's revocable trust. A died during Year 1, and B, A's successor, died in Year 2. C died during Year 3. X inadvertently failed to file a timely election under § 754 for Year 1, Year 2, or Year 3.

X represents that it has acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government.

LAW AND ANALYSIS

Section 754 provides, in part, 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 1.743-1(j)(1) of the Income Tax Regulations provides that the basis adjustment constitutes an adjustment to the basis of partnership property with respect to the transferee only. No adjustment is made to the common basis of partnership property. Thus, for purposes of calculating income, deduction, gain, and loss, the transferee will have a special basis for those partnership properties the bases of which are adjusted under § 743(b) and the regulations. The adjustment to the basis of partnership property under § 743(b) has no effect on the partnership's computation of any item under § 703.

Section 1.754-1(b)(1) provides, in part, that an election under § 754 to adjust the basis of partnership property under 743(b) with respect to 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 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 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 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 (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of 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 its Year 1 taxable year and thereafter. The election should be made in a written statement filed with the appropriate service center for association with X's return for its Year 1 taxable year. A copy of this letter should be attached to the election.

This ruling is contingent on X and X's owners filing amended returns within 120 days of the date of this letter properly reporting the consequences of the election under § 754. This ruling is also contingent on X adjusting the basis of its properties to reflect any §§ 734(b) or 743(b) adjustments that would have been made if the § 754 election had been timely made. These basis adjustments must reflect any additional depreciation that would have been allowable if the § 754 election had been timely made, regardless of whether 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. Any depreciation deduction allowable for an open year is to be computed based upon the remaining useful life and using property basis as adjusted by the greater of any depreciation deduction allowed or allowable in any prior year had the § 754 election been timely made. Additionally, the partners of X must adjust the basis of their interests in X to reflect what that basis would be if the § 754 election had been timely made, regardless of whether 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. Specifically, the partners of X must reduce the basis of their interests in X in the amount of any additional depreciation that would have been allowable if the § 754 election had been timely made. Furthermore, X and its owners

agree to amend their Year 4 taxable year returns to be filed consistently with § 1.743-1(j).

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Internal Revenue Code and the regulations thereunder. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

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.

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

In accordance with the power of attorney on file with this office, we are sending copies of this letter to X's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Caroline E. Hay
Assistant to the Branch Chief, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes