

Date 2 =

Date 3 =

Date 4 =

Year 1 =

Year 2 =

Year 3 =

Dear :

This letter responds to a letter dated June 21, 2022, and subsequent correspondence, submitted on behalf of X, Y, and Z by their authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file elections under § 754 of the Internal Revenue Code (the 'Code').

FACTS

According to the information submitted, X is a State limited liability limited partnership and Y and Z are State limited liability companies, all of which are classified as partnerships for federal tax purposes.

On Date 1 (within Year 1), A died owning an interest in X through A's grantor trust. In Year 1, pursuant to the terms of the trust, the trustee distributed the trust's interest in X to each of A's children (B, C, and D). X represents that it inadvertently failed to timely file a § 754 election to adjust the basis of partnership property for its Year 1 taxable year and thereafter.

On Date 2, B, C, and D contributed a portion of their interests in X to Y. In addition, B, C, and D separately owned interests in Z. B died on Date 3 (within Year 2). Subsequently, C died on Date 4 (within Year 3). Y and Z each represent that they inadvertently failed to timely file a § 754 election to adjust the basis of partnership property for their Year 2 taxable year and thereafter.

LAW AND ANALYSIS

Section 754 provides that a partnership may elect to adjust the basis of partnership property when there is a distribution of property or a transfer of a partnership interest. An election under § 754 applies 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, must 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) for filing the return for such taxable year.

Rev. Rul. 87-115, 1987-2 C.B. 163, provides that the optional adjustment to basis under § 754 will be available to both an upper-tier partnership (UTP) and a lower-tier partnership (LTP) when there is a sale or exchange of a partnership interest or the death of a partner in UTP, and both UTP and LTP have made an election under § 754 to adjust the basis of partnership property on a sale or exchange of a partnership interest or on the death of a partner.

Under § 301.9100-1(c), the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six 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 that the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions 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 facts 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, Y, and Z are granted an extension of time of one hundred-twenty (120) days from the date of this letter to make a § 754 election for X's Year 1 taxable year and for Y and Z's Year 2 taxable year. The elections should be made in a written statement filed with the appropriate service center either (1) to be associated with: X's Year 1

partnership tax return and/or Y and Z's Year 2 partnership tax return, or (2) accompanying Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), and any related filings as instructed in Form 8082, as appropriate. A copy of this letter should be attached to the relevant filing(s).

This ruling is contingent on X, Y, and Z's relevant filing(s) containing adjustments to the basis of X, Y, and Z's 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 deductions for the recovery of basis related to X, Y, and Z's property 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 deductions for the recovery of basis allowable for an open year are to be computed based on the remaining useful life or recovery period and using property basis as adjusted by the greater of any such deductions allowed or allowable in any prior year had the § 754 election been timely made.

If the partnership(s) are required to file an AAR in order to properly amend a partnership tax return, then this ruling is also contingent on X, Y, and/or Z filing Form 8082 and taking into account the adjustments as required by § 6227(b).

Additionally, the partners of X, Y, and Z must adjust the basis of their interests in X, Y, and Z 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, Y, and/or Z must reduce the basis of their interests in X, Y, and/or Z in the amount of any additional deductions for the recovery of basis related to X, Y, and/or Z's property that would have been allowable if the § 754 election had been timely made.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are 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 has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs & Special Industries)

By: /s/_____
Jennifer N. Keeney
Senior Counsel, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure
Copy for § 6110 purposes

cc: