

Internal Revenue Service

Department of the Treasury
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Date:
May 16, 2023

LEGEND

Estate =

Trust =

Year 1 =

Year 2 =

Dear :

This letter responds to a letter dated November 7, 2022, and subsequent correspondence, submitted on behalf of Estate by its authorized representatives, requesting that the Service grant Estate an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 663(b) of the Internal Revenue Code.

FACTS

According to the information submitted, Estate files its federal income tax return on a calendar year basis. Estate made a distribution to Trust (the "Distribution") within the first sixty-five days of its Year 2 taxable year and intended the Distribution be considered as paid or credited on the last day of its Year 1 taxable year as permitted

under § 663(b). However, due to inadvertence, Estate's § 663(b) election was not timely filed.

LAW AND ANALYSIS

Section 663(b)(1) provides that in general, if within the first 65 days of any taxable year of an estate or trust, an amount is properly paid or credited, such amount shall be considered paid or credited on the last day of the preceding taxable year. Section 663(b)(2) provides that § 663(b)(1) shall apply with respect to any taxable year of an estate or a trust only if the executor of such estate or the fiduciary of such trust (as the case may be) elections, in such manner and at such time as the Secretary prescribed by regulations, to have § 663(b)(1) apply for such taxable year.

Section 1.663(b)-2(a)(1) of the Income Tax Regulations provides that if a trust return is required to be filed for the taxable year of the trust for which the election is made, the election shall be made in the appropriate place on such return. The election under § 1.663(b)-2(a)(1) shall be made not later than the time prescribed by law for filing such return (including extensions thereof). Such election shall become irrevocable after the last day prescribed for making it.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but not 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 including an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that Estate has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, Estate is granted an extension of time of 120 days from the date of this letter to file an election under § 663(b). The election should be made by filing income tax returns (or amended returns) for Year 1 and Year 2, as necessary, to include the election and properly report the tax consequences of the Distribution in a manner consistent with the election having been made. The income tax return(s) must be filed within the 120-day period following the date of this letter with the service center where the Estate files its returns. A copy of this letter should be attached to each income tax return.

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 Code. 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. Finally, we express or imply no opinion concerning whether the distributions were properly paid or credited.

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 ruling request, it is subject to verification on examination.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that this ruling 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 Estate's authorized representatives.

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)

cc: