

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:1  
PLR-105851-23  
Date:  
August 25, 2023

LEGEND

X =

A =

a =

State =

Date =

Year =

Dear :

This responds to the letter dated March 17, 2023, and related correspondence, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 754 of the Internal Revenue Code (“Code”).

## FACTS

Based on the materials submitted on behalf of X, we understand the relevant facts to be as follows. X was formed as a limited liability company under the laws of State. X is treated as a partnership for Federal tax purposes. On Date, A purchased an a% interest in X from X's existing partners.

X inadvertently failed to timely make an election under § 754 for Year, the year of A's purchase. X represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the government, and that it is not using hindsight in making the election.

## LAW AND ANALYSIS

Section 754 provides that if a partnership files an election, in accordance with regulations prescribed by the Secretary, the basis of partnership property shall be 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 interest in the partnership during the taxable year with respect to which the election was filed and all subsequent tax 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 thereof) for filing the return for that taxable year.

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 Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term "regulatory election" as including an election whose deadline is prescribed by a regulation published in the Federal Register.

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.

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 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 taxable year and thereafter. The election should be made in a written statement filed with the appropriate service center accompanying Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), and any related filings as instructed in Form 8082, for X's Year taxable year. A copy of this letter should be attached to the filing.

This ruling is contingent on X's relevant filing(s) containing adjustments to the basis of X'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'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 X is required to file an AAR in order to properly amend a partnership tax return, then this ruling is also contingent on X filing Form 8082 and taking into account the adjustments as required by § 6227(b).

Additionally, the partners of X must adjust the bases 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 deductions for the recovery of basis related to X's property that would have been allowable if the § 754 election had been timely made.

A copy of this letter must be attached to any 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.

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. 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.

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.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office, we are sending a copy of this letter to your authorized representatives.

Sincerely,

Holly Porter  
Associate Chief Counsel  
(Passthroughs & Special Industries)

By:                   /S/                    
Joy Spies  
Senior Technician Reviewer, Branch 1  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosure:

Copy of this letter for section 6110 purposes

cc: