

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

August 22, 2003

LLC =

A =

B =

d1 =

Year 1 =

Dear :

This responds to your letter dated August 5, 2002, and subsequent correspondence, that you submitted on LLC's behalf, requesting an extension of time to make an election under § 754 of the Internal Revenue Code.

The information submitted states that LLC is a limited liability company that is treated as a partnership for federal income tax purposes. A, a member of LLC, died on d1 of Year 1. LLC's return for the Year 1 taxable year was filed without a § 754 election.

B, LLC's manager, represents that LLC failed to make a timely § 754 election due to misinformation it received from its advisor at the time the election was due.

Section 754 provides that a partnership may elect to adjust the basis of partnership property in the case of a distribution of property or in the case of a transfer of a partnership interest. The election 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 such election is 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 no later than the time prescribed by § 1.6031(a)-1(e) (including extensions thereof) for filing the return for that taxable year.

Under § 301.9100-1(c) of the Procedure and Administration Regulations, 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 an election whose deadline 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 301.9100-2 and 301.9100-3 provide the standards 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 extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

In this case, based on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, LLC is granted an extension of time for making the § 754 election until sixty (60) days following the date of this letter. The election should be made in a written statement filed with the appropriate service center, for association with LLC's tax return for the Year 1 taxable year. A copy of this letter should be attached to the statement filed.

Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the transactions described above under any other

provisions of the Code. Specifically, we express no opinion as to whether LLC is a partnership for federal tax purposes.

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

Sincerely yours,

Heather C. Maloy  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures: 2  
Copy of this letter  
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