

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:PSI:B02 – PLR-163612-03

Date:

June 04, 2004

Legend

Partnership =

EIN:

A =

SSN:

B =

Trust 1 =

EIN:

Trust 2 =

EIN:

Trust 3 =

EIN:

Trust 4 =

EIN:

Date 1 =

Year 1 =

Dear :

This letter responds to your letter, dated October 14, 2003, submitted on behalf of Partnership by its authorized representative, requesting that Partnership be granted an extension of time to make an election under § 754 of the Internal Revenue Code.

The information submitted states that A owned an interest in Partnership through Trust 1, a revocable trust, and through Trust 3, a marital trust at the time of A's death on Date 1. On A's death, Trust 1 became Trust 2, and Trust 1's interest in Partnership was treated as transferred to Trust 2 for federal tax purposes. Pursuant to the terms of the trust, Trust 3's interest in Partnership was transferred to Trust 4. B, a tax professional who was in charge of Partnership's tax matters, represents that B failed to make, or advise Partnership to make, a § 754 election. Therefore, a timely § 754 election was not made for Partnership's Year 1 taxable year.

Section 754 provides that a partnership may elect to adjust the basis of partnership property where there is a distribution of property or a transfer of a partnership interest. The election applies 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.

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 six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except 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.

Section 301.9100-2 provides 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 to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interest of the government.

Based on the information submitted and the representations made therein, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied.

As a result, Partnership is granted an extension of time of sixty (60) days following the date of this letter to make a § 754 election. The election should be made in a written statement filed with the applicable service center. A copy of this letter should be attached to the statement filed. A copy of this letter is enclosed for that purpose.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the transaction described above under any other provision of the Code. Specifically, we express no opinion as to whether or not Partnership is a partnership for federal tax purposes.

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, a copy of this letter will be sent to Partnership.

Sincerely,

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

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes