

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

Telephone Number:

Refer Reply To:

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Date:

December 02, 2005

Legend

X =

State =

A =

Trust =

Date 1 =

Year 1 =

Dear

This letter responds to a letter dated January 31, 2005, and subsequent correspondence, submitted on behalf of X, requesting that the Service grant X an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 754 of the Internal Revenue Code.

The information submitted states that X is a State limited liability company. A owned an interest in X through Trust, a grantor trust. On Date 1 of Year 1, A died. X inadvertently failed to timely file a § 754 election.

Section 754 provides that if a partnership files an election, in accordance with the regulations prescribed by the Secretary, the basis of partnership property is 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 interests in the partnership during the taxable year with respect to which the election was filed and all subsequent taxable years. A transfer of an interest in a partnership on the death of a partner is eligible for the § 754 election. The value of the partnership interest reported on the estate tax return (including discounts) is the value used to determine the basis of the partnership interest and the adjustment to basis of partnership property under § 743(b) and § 754. See generally, § 1.1014-3.

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.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election.

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. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

Based solely on the information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 60 days from the date of this letter to make an election under § 754, effective Year 1, with the appropriate service center. A copy of this letter should be attached to the § 754 election. A copy is enclosed for that purpose.

As a condition for this late election relief, X must amend its federal income tax returns consistent with X having made a timely § 754 election effective Year 1.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it 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 forwarded to X's authorized representative.

Sincerely yours,

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

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes