

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **200939001**  
Release Date: 9/25/2009

Third Party Communication: None  
Date of Communication: Not Applicable  
Person To Contact:

Index Number: 9100.26-00

, ID No.  
Telephone Number:

Refer Reply To:  
CC:PSI:02  
PLR-106459-09  
Date:  
June 11, 2009

Trust =  
A =  
Year 1 =  
Year 2 =  
Date 1 =  
Charity =

Dear :

This responds to a letter dated February 9, 2009, submitted on behalf of Trust, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 642(c)(1) of the Internal Revenue Code for its Year 1 taxable year.

The information submitted states that A, the grantor of Trust, died on Date 1. Trust provides for bequests to Charity upon A's death. On the income tax return filed for Trust for Year 1, a charitable deduction was claimed for amounts set aside from Trust's gross income for Charity. In Year 2, the amounts set aside for Charity in Year 1 were actually distributed to Charity. An election under § 642(c)(1), however, was not filed for Trust for the Year 1 taxable year.

Section 642(c) provides that in the case of an estate or trust, there shall be allowed as a deduction in computing its taxable income any amount of the gross income without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the taxable year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary prescribes by regulation.

Section 1.642(c)-1(b)(2) of the Income Tax Regulations provides that the election under section 642(c)(1) shall be made not later than the time, including extensions thereof, prescribed by law for filing the federal income tax return for the succeeding taxable year.

Section 1.642(c)-1(b)(3) provides that the election shall be made by filing with the income tax return (or amended return) for the taxable year in which the contribution is treated as paid a statement which (i) states the name and address of the fiduciary, (ii) identifies the estate or trust for which the fiduciary is acting, (iii) indicates that the fiduciary is making an election under section 642(c)(1) in respect of contributions treated as paid during such taxable year, (iv) gives the name and address of each organization to which any contribution is paid, and (v) states the amount of each contribution and date of actual payment, or if applicable, the total amount of contributions paid to each organization during the succeeding taxable year, to be treated as paid in the preceding 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 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term "regulatory election" as an election whose due date 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 301.9100-1 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 on the information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. As a result, Trust is granted an extension of time for 60 days from the date of this letter to file elections under § 642(c) for Trust's Year 1 and Year 2 taxable years. The amended returns must be

filed within the 60 day period with the service center where Trust files its returns. A copy of this letter should be attached to the amended returns.

Except as expressly provided herein, we express or imply no opinion concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representatives.

Sincerely,

Curt G. Wilson  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2):

Copy of this letter  
Copy for § 6110 purposes

cc: