

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B02
PLR-123646-10
Date:
October 29, 2010

P =

Q =

x =

Date1 =

Date =

2

Date =

3

State =

Dear

This responds to a letter dated May 10, 2010, submitted on behalf of P by P's authorized representative, requesting that P be granted an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 754 of the Internal Revenue Code.

The information states that P was formed as a limited liability company under the laws of State on Date 1 and is treated as a partnership for federal tax purposes. On Date 2, Q acquired an x percent ownership interest in P. P relied on its tax advisor for tax advice. P, however, inadvertently failed to timely make an election under § 754 for the taxable year ending Date 3. P 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.

Section 754 provides that if a partnership files an election, in accordance with the regulations prescribed by the Secretary, the basis of the 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.

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.

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.

Section 301.9100-3 provides that 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 the taxpayer acted reasonably and in good faith, and that 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 §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, P is granted an extension of time of 120 days from the date of this letter to make an election under § 754, effective for the taxable year ending Date 3. The election should be made in a written statement filed with the appropriate service center for association with P's return for the taxable year ending Date 3. A copy of this letter should be attached to the statement filed.

As a condition for this late election relief, P and any affected taxpayers must file, within 120 days of the date of this letter, any amended federal income tax returns for the taxable year ending Date 3 and subsequent years consistent with P having made a timely § 754 election effective for the taxable year ending Date 3. Copies of this letter should be attached to any such amended returns.

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 Internal Revenue Code and the regulations thereunder. Specifically, no opinion is expressed or implied concerning whether P was or 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 a power of attorney on file with this office, a copy of this letter is being sent to P's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Bradford R. Poston
Senior Counsel, Branch 2
(Passthroughs & Special Industries)

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

cc: