

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:1
PLR-126994-10
Date: December 22, 2010

LEGEND

Trust =

Year 1 =

Year 2 =

X =

Dear :

This letter responds to a letter dated June 22, 2010, and subsequent correspondence, submitted on behalf of Trust by its authorized representative, requesting that the Service grant Trust an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 663(b) of the Internal Revenue Code.

FACTS

Trust files its federal income tax return on a calendar year basis. Trustee of Trust made a distribution in the amount of \$X (the Distribution) within the first sixty-five days of Year 2 and intended to have the Distribution considered to be paid or credited on the last day of Year 1 as permitted under § 663(b). However, due to inadvertence, the § 663(b) election was not filed.

LAW AND ANALYSIS

Section 663(b)(1) provides that in general, if within the first 65 days of any taxable year of an estate or a trust, an amount is properly paid or credited, such amount shall be considered paid or credited on the last day of the preceding taxable year. Section

663(b)(2) provides that § 663(b)(1) shall apply with respect to any taxable year of an estate or trust only if the executor of such estate or the fiduciary of such trust (as the case may be) elects, in such manner and at such time as the Secretary prescribes by regulations, to have § 663(b)(1) apply for such taxable year.

Section § 1.663(b)-2(a)(1) of the Income Tax Regulations provides that if a trust return is required to be filed for the taxable year of the trust for which the election is made, the election shall be made in the appropriate place on such return. The election under § 1.663(b)-2(a)(1) shall be made not later than the time prescribed by law for filing such return (including extensions thereof). Such election shall become irrevocable after the last day prescribed for making it.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but not more than 6 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 including an election whose due date is prescribed by a regulation published in the Federal Register.

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.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that Trust has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. Accordingly, Trust is granted an extension of time of one hundred and twenty (120) days from the date of this letter to file an election under § 663(b). The election should be made by filing, with the appropriate service center, amended income tax returns for Year 1 and Year 2, as necessary, to include the election and properly report the tax consequences of the Distribution in a manner consistent with the election having been made. A copy of this letter should be attached to the amended returns.

Except for the specific ruling above, no opinion is expressed or implied concerning the federal tax consequences of the facts of this case under any other provision of the Code.

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, we are sending a copy of this letter to Trust's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: Faith P. Colson
Faith P. Colson, Senior Counsel
Branch 1
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
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