

Internal Revenue Service

Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-100509-13

Date:
June 25, 2013

X =

A =

State =

Date 1 =

Date 2 =

Date 3 =

Year 1 =

Year 2 =

Dear :

This letter responds to a letter dated December 20, 2012, and subsequent correspondence, submitted on behalf of X by its authorized representative, requesting a ruling that X 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 (Code) for Year 1.

FACTS

X is a family limited partnership organized under the laws of State on Date 1. On Date 2, A, a limited partner of X, died. X timely filed its income tax return for Year 1. X relied on its tax advisor when preparing that return, and the advisor did not inform X as to the availability of an election under § 754. X sold a portion of its assets that consisted primarily of stocks and other marketable securities during Year 1, and in every tax year since.

In Date 3, X became aware of its failure to make an election under § 754. X now requests an extension of time under §§ 301.9100-1 and 301.9100-3 to make a § 754 election to adjust the basis of its assets.

LAW

Section 743(b) provides, in pertinent part, that, in the case of a transfer of an interest in a partnership by sale or exchange or upon the death of a partner, a partnership, with respect to which an election provided in § 754 is in effect, will increase the adjusted basis of the partnership property by the excess of the basis to the transferee partner of his interest in the partnership over his proportionate share of the adjusted basis of the partnership property, or decrease the adjusted basis of the partnership property by the excess of the transferee partner's proportionate share of the adjusted basis of the partnership property over the basis of his interest in the partnership. Section 743(b) further provides that such increase or decrease shall constitute an adjustment to the basis of partnership property with respect to the transferee partner only.

Section 743(c) provides that the allocation of basis among partnership properties where § 743(b) is applicable shall be made in accordance with the rules provided in § 755.

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.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under §§ 754 and 1.754-1 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 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 Code

except subtitles E, G, H, and I. Section 301.9100-1(b) provides that a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register.

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 a regulatory election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making regulatory 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 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 on the facts submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of 120 days from the date of this letter to make an election under § 754 effective for its Year 1 taxable year and thereafter. The election should be made in a written statement filed with the appropriate service center for association with X's Year 1 tax return. A copy of this letter should be attached to the § 754 election.

The relief to make a § 754 election to adjust the basis of the partnership property does not apply to any assets sold during Years 1 and 2. However, X must take into account the assets sold during Years 1 and 2 when calculating adjustments under § 743(b) and (c), and § 1.755-1(b) to X's remaining property affected by the § 754 election effective Year 1 and thereafter. Furthermore, the value of the partnership interest as reported on the estate tax return for A (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 § 1.1014-3.

Except as specifically set forth above, we express or imply no opinion 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 requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to your authorized representatives.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Sincerely,
Associate Chief Counsel
(Passthroughs and Special Industries)

By: _____/s/_____
Mary Beth Carchia
Senior Technician Reviewer
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

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