

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201348008**

Release Date: 11/29/2013

Index Number: 9100.00-00, 9100.12-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B02
PLR-117024-13

Date:
July 18, 2013

Legend

Trust =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Beneficiary 1 =

Beneficiary 2 =

Beneficiary 3 =

Beneficiary 4 =

Beneficiary 5 =

a =

b =

c =

Dear :

This letter responds to a letter dated March 27, 2013 submitted on behalf of Trust by its authorized representative, requesting that the Service grant Trust an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 663(b) of the Internal Revenue Code (Code).

The information submitted states that Trust improperly filed its federal income tax return on fiscal year basis, with its final taxable year ending Date 1. Its proper taxable year, the calendar year, should have ended Date 2.

The taxpayer represents that on Date 3 (which is within the calendar year ending Date 2), Trust's accountant prepared accountings crediting both Beneficiary 1's and Beneficiary 2's accounts with final distributions of a in cash. These accountings related only to one portion of Trust ("Portion 1"). Trust's accountant mailed the accountings relating to Portion 1 to Beneficiary 1 and Beneficiary 2 on Date 4 (which is within sixty-five days following the close of the calendar year ending Date 2).

On Date 4, Trust's accountant prepared the final accountings for the remaining assets in Trust ("Portion 2") crediting the beneficiaries in the following amounts:

- Beneficiary 1 was credited b in cash.
- Beneficiary 2 was credited b in cash, real property, and as satisfaction of a settlement agreement.
- Beneficiary 3 was credited b in cash.
- Beneficiary 4 was credited c in cash.
- Beneficiary 5 was credited c in cash.

Trust's accountant mailed the accountings relating to Portion 2 to the beneficiaries on Date 5 (which is within sixty-five days following the close of the calendar year ending Date 2).

The trustee of Trust intended to file a § 663(b) election with regard to these distributions, but due to inadvertence the election was not timely filed.

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 a 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 in §§ 301.9100-2 and 301.9100-3 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 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 301.9100-2 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 the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

Based solely on the information submitted and the representations made, we conclude that Trust has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, Trust is granted an extension of time of 120 days from the date of this letter to file an election under § 663(b). The election should be made by filing an income tax return for its taxable year ending Date 1, amended to include the election, with the appropriate service center. A copy of this letter should be attached to the amended return.

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. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election. Finally, we express or imply no opinion concerning whether the distributions were properly paid or credited and in the proper amounts.

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, a copy of this letter will be sent to Trust's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Bradford Poston
Senior Counsel, Branch 2
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

cc: