

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B3
PLR-140104-13

Date:
March 13, 2014

Dear :

X =

A =

State =

Date 1 =

Date 2 =

Year 1 =

Year 2 =

Year 3 =

Dear :

This letter responds to a letter dated August 30, 2013, 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 limited partnership organized under the laws of State on Date 1. On Date 2, A, a partner of X, died. X intended to make an election under § 754 for Year 1, the year in which A died. X's accountant, who was responsible for filing the § 754 election for Year 1, inadvertently failed to file the election. X's partnership returns (including any amended returns) for Year 1, Year 2, and Year 3 were timely filed and reflected adjustments to the basis of X's property as if a § 754 election was in effect.

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, shall 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 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 six 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 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 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 statement filed.

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 a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

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: _____
Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: