

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:B01
PLR-126727-16

Date:
February 07, 2017

Trust =

X =

Year 1 =

Year 2 =

Dear

This letter responds to a letter dated August 22, 2016, 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 § 642(c) of the Internal Revenue Code.

FACTS

Trustee of Trust made charitable contributions in the total amount of \$X (the Contributions) during Year 2 and intended to have the Contributions considered to be paid in Year 1 as permitted under § 642(c). However, due to inadvertence, the § 642(c) election was not timely filed.

LAW AND ANALYSIS

Section 642(c) provides that, in the case of an estate or trust, there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by § 170(a), relating to the deduction for charitable, etc., contributions and gifts) any

amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in § 170(c) (determined without regard to § 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary prescribes by regulation.

Section 1.642(c)-1(b)(1) provides that for purposes of determining the deduction allowed under § 1.642(c)-1(a), the fiduciary (as defined in § 7701(a)(6)) of an estate or trust may elect under § 642(c)(1) to treat as paid during the taxable year (whether or not such year begins before January 1, 1970) any amount of gross income received during such taxable year or any preceding taxable year which is otherwise deductible under such taxable year or any preceding taxable year and which is paid after the close of such taxable year but on or before the last day of the next succeeding taxable year of the estate or trust. The preceding sentence applies only in the case of payments actually made in a taxable year which is a taxable year beginning after December 31, 1969. No election shall be made, however, in respect of any amount which was deducted for any previous taxable year or which is deducted for the taxable year in which such amount is paid.

Section 1.642(c)-1(b)(2) provides that the election under § 1.642(c)-1(b)(1) shall be made not later than the time, including extensions thereof, prescribed by law for filing the income tax return for the succeeding taxable year. Such election shall, except as provided in § 1.642(c)-1(b)(4), become irrevocable after the last day prescribed for making it. Having made the election for any taxable year, the fiduciary may, within the time prescribed for making it, revoke the election without the consent of the Commissioner.

Section 1.642(c)-1(b)(3) provides that the election shall be made by filing with the income tax return (or amended return) for the taxable year in which the contribution is treated as paid a statement which (1) states the name and address of the fiduciary, (ii) identifies the estate or trust for which the fiduciary is acting, (iii) indicates that the fiduciary is making an election under § 642(c)(1) in respect of contributions treated as paid during such taxable year, (iv) gives the name and address of each organization to which any contribution is paid, and (v) states the amount of each contribution and date of actual payment, or if applicable, the total amount of contributions paid to each organization during the succeeding taxable year, to be treated as paid in the preceding taxable year.

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 the 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 120 days from the date of this letter to file an election under § 642(c) to claim a deduction in Trust's Year 1 taxable year for charitable contributions made in Year 2. 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 charitable contribution deduction in a manner consistent with the election having been made. A copy of this letter should be attached to the returns.

Except for the specific ruling above, no opinion is expressed or implied 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 Trust's authorized representative.

Sincerely,

Faith Colson

Faith Colson
Senior Counsel, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: