

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201923015**
Release Date: 6/7/2019

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 9100.00-00, 754.00-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-123318-18

Date:
February 25, 2019

Legend:

X =

State =

Date 1 =

Year =

Dear :

This letter responds to your request, dated July 19, 2018, on behalf of X, for permission to file a late section 754 election under section 301.9100 of the Procedure and Administration Regulations.

Facts

Based on the materials submitted and representations within, we understand the relevant facts to be as follows. X is a partnership formed in accordance with the laws of State. A partner in X, died on Date 1. X's partnership return for Year was timely filed, but inadvertently a section 754 election to adjust the basis of partnership property was not filed with the return.

Law and Analysis

Under section 754 of the Internal Revenue Code, a partnership may elect to adjust the basis of partnership property where there is a distribution of property or a transfer of a partnership interest. The election applies to all distributions of property by

the partnership and to all transfers of interests in the partnership during the taxable year with respect to which the election was filed and all subsequent years.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under section 754 is 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 no later than the time for filing for the taxable year, including extensions.

Under section 301.9100-1(c), the Commissioner may grant a reasonable extension of time to make a regulatory election, 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) defines the term regulatory election as including an election whose deadline is prescribed by a regulation published in the Internal Revenue Bulletin.

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 an election. Section 301.9100-1(a).

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions for time for making elections that do not meet the requirements of section 301.9100-2.

Conclusions

Based on the information submitted and the representations made, we conclude that the requirements of section sections 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 120 days following the date of this letter to make a section 754 election. The election should be made in a written statement filed with the applicable service center for association with X's return. A copy of this letter should be attached to the statement filed. A copy of this letter is enclosed for that purpose.

This ruling is contingent on X adjusting the basis of its properties to reflect any section 734(b) or section 743(b) adjustments that would have been made had the section 754 election been timely made. These basis adjustments must reflect any additional depreciation that would have been allowable had the section 754 election been timely made, regardless of whether the statutory period of limitation on assessment or filing a claim for refund has expired for any year subject to this grant of late election relief. Any depreciation deduction allowable for an open year is to be computed based upon the remaining useful life and using property basis adjusted by the greater of any depreciation allowed or allowable in any prior year had the section 754 election been timely made. Additionally, X's partners must adjust the basis of their

interests in X to reflect what that basis would be had the section 754 election been timely made, regardless of whether the statutory period of limitation on assessment or filing a claim for refund has expired for any year subject to this grant of late election relief. Specifically, X's partners must reduce the basis of their interests in X in the amount of any additional depreciation that would have been allowable had the section 754 election been timely made.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the transactions described above under any other provision of the Code. Specifically, we express no opinion as to whether or not X is a partnership for federal tax purposes.

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.

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.

Pursuant to the Power of Attorney on file with this office, a copy of this ruling will be sent to the taxpayer representative.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs and Special Industries)

David R. Haglund

By: David R. Haglund
Branch Chief, Branch 1
(Passthroughs & Special Industries)

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

cc: