

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **201950002**  
Release Date: 12/13/2019

Third Party Communication: None  
Date of Communication: Not Applicable

Index Numbers: 754.00-00, 9100.00-00,  
9100.15-00

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B3  
PLR-101032-19

Date:  
September 12, 2019

Legend

X =

Y =

A =

n =

o =

Country =

Date #1 =

Date #2 =

Date #3 =

Dear :

This letter responds to a letter dated November 5, 2018, and subsequent correspondence, submitted on behalf of X by its authorized representatives,

requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make elections under § 754 of the Internal Revenue Code (Code).

### FACTS

The information submitted states that X was formed as a general partnership under the laws of Country on Date #1. X represents that X was a partnership for federal tax purposes. On Date #2, Y, a partnership for federal tax purposes, owned an n% interest in X. Also on Date #2, A purchased an o% interest in Y. X inadvertently failed to make a timely election under § 754 for X's taxable years ending Date #2 and Date #3.

X represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the Government, and that it is not using hindsight in making the election. X also represents that granting relief will not result in the affected taxpayers, in the aggregate, having a lower tax liability than if the election had been timely made.

### LAW

Section 754 provides, in part, 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 distribution of property, in the manner provided in § 734, and, in the case of a transfer of a partnership interest, in the manner provided in § 743. Such an election shall apply with respect 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 taxable years.

Section 1.754-1(b)(1) of the Income Tax Regulations provides, in part, that an election under § 754 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(a)-1(e) (including extensions thereof) for filing the return for the taxable year.

The optional adjustment to basis under § 754 will be available to both an upper-tier partnership (UTP) and a lower-tier partnership (LTP) when there is a sale or exchange of a partnership interest or the death of a partner in UTP, and both UTP and LTP have made an election under § 754 to adjust the basis of partnership property on a sale or exchange of a partnership interest or on the death of a partner. Rev. Rul. 87-115, 1987-2 C.B. 163.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time 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.

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 301.9100-2 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.

### CONCLUSION

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 120 days from the date of this letter to make elections under § 754 effective for its taxable years ended Date #2 and Date #3 and thereafter. The election should be made in a written statement filed with the appropriate service center for association with X's returns for its taxable years ended Date #2 and Date #3. A copy of this letter should be attached to the elections.

This ruling is contingent on X filing all required returns and adjusting the basis of its properties to reflect any § 734(b) or § 743(b) adjustments that would have been made if the § 754 election had been timely made. These basis adjustments must reflect any additional depreciation that would have been allowable if the § 754 election had 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 relief. Additionally, the partners of X must adjust the basis of their interests in X to reflect what that basis would be if the § 754 election had 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 relief. Specifically, the partners of X must reduce the basis of their interests in X in the amount of any additional depreciation that would have been allowable if the § 754 election had been timely made.

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 and the regulations thereunder. Specifically, we express no opinion as to whether X is a partnership for federal tax purposes.

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.

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.

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

Sincerely,  
Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_  
Caroline E. Hay  
Assistant to the Branch Chief, Branch 3  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

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