

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
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PLR-114862-22
Date:
January 30, 2023

LEGEND

X =

State =

Date 1 =

Date 2 =

Dear

This letter responds to a letter dated July 29, 2022, submitted on behalf of X requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 754 of the Internal Revenue Code (“Code”).

FACTS

The information submitted states that X is a limited liability company organized under the laws of State. X has been classified as a partnership for federal tax purposes as of Date 1. X intended to make an election under § 754 to adjust the basis of partnership property for its taxable year ended Date 2. However, X inadvertently failed to timely file a § 754 election with its partnership return for its taxable year ended Date 2.

X represents that it has filed returns for its taxable year ended Date 2 and subsequent taxable year(s) in a manner consistent with the § 754 election having been made, including issuing Schedule K-1(Form 1065) to the affected partner reflecting

adjustments to amortization expense that are consistent with the election having been made.

LAW AND ANALYSIS

Section 754 of the Code 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 election applies 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) 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.

Section 301.9100-1(c) of the Procedure and Administration Regulations 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) provides that the term “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 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 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 upon the facts 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 a § 754 election for its taxable year ended Date 2 and thereafter. The election should be made

in a written statement filed with the appropriate service center either (1) to be associated with X's partnership tax return for its taxable year ended Date 2, or (2) accompanying Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), and any related filings as instructed in Form 8082, as appropriate. A copy of this letter should be attached to the relevant filing.

Except as specifically ruled upon above, we express or imply no opinion concerning the federal tax consequences of the facts of this case 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.

The rulings contained in this letter are 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 request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter ruling to your authorized representatives.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____

Jennifer N. Keeney
Senior Counsel, Branch 1
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure
Copy for § 6110 purposes

cc: