

**Internal Revenue Service**

Department of the Treasury

Index Number: 9100.15-00

Washington, DC 20224

Number: **199923035**  
Release Date: 6/11/1999

Person to Contact:  
Telephone Number:

Refer Reply To:  
CC:DOM:P&SI:1-PLR-122607-98  
Date:  
March 15, 1999

Legend

Partnership =  
  
A =  
  
Date =  
  
Year =

This responds to a submission from your authorized representative dated November 25, 1998, submitted on Partnership's behalf, requesting an extension of time to make an election under § 754 of the Internal Revenue Code.

Facts

On Date, A, a partner in Partnership, died. Partnership filed its Year partnership return without making a § 754 election, because Partnership's accountant erroneously believed that the § 754 election could be made on an amended return at a later date.

Analysis

Section 754 provides that a partnership may elect to adjust the basis of partnership property in the case of a distribution of property or in the case of a transfer of a partnership interest. The 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 such election is filed and all subsequent taxable years.

PLR-122607-98

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

Section 1.754-1(b) refers to § 1.9100-1 (now § 301.9100-1 of the Procedure and Administration Regulations) for rules regarding extensions of time for filing elections.

Under § 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 "regulatory election" to include 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 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 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

### Conclusion

In this case, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Consequently, Partnership is granted an extension for making the election under § 754 effective for Year until 60 days following the date of this letter. The election should be made in a written statement filed with the District Director for association with Partnership's Year return. A copy of this letter should be attached to the statement.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the Code.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent. Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to Partnership's representative.

PLR-122607-98

Sincerely yours,

Signed/Paul F. Kugler  
Paul F. Kugler  
Assistant Chief Counsel  
(Passthroughs and Special Industries)

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