

Internal Revenue Service

Department of the Treasury

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Person to Contact:

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Telephone Number:

Refer Reply To:

CC:DOM:P&SI:2-PLR-103463-00

Date:

June 13, 2000

Partnership =

A =

Date =

Year 1 =

Dear :

This responds to your letter dated February 5, 2000, and subsequent correspondence, that you submitted on Partnership's behalf, requesting an extension of time to make an election under § 754 of the Internal Revenue Code.

On August 18, 1997, A, a partner in Partnership, died. Partnership's return for the 1997 taxable year was filed without a § 754 election.

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.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under § 754 of the Code 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 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, if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-1(b) defines the term "regulatory election" as including an election whose deadline is prescribed by notice published in the Internal Revenue Bulletin.

Section 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 of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3 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. Section 301.9100-3(a).

In this case, based on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 through 301.9100-3 have been met. Consequently, Partnership is granted an extension of time for making the § 754 election until thirty 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 1997 tax return. A copy of this letter should be attached to the statement filed with the District Director. Enclosed is a copy for that purpose.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transaction described above under any other provision of the Code. Specifically, no opinion is expressed concerning whether Partnership is, in fact, a partnership for federal tax purposes.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) of the Code 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 will be sent to Partnership.

Sincerely yours,
PAUL F. KUGLER
Assistant Chief Counsel
Office of the Assistant Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes