

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:3 PLR-160866-02

Date:

July 15, 2003

LEGEND

Partnership =

A =

B =

C =

X =

Corporation =

Date 1 =

Date 2 =

Date 3 =

Year 1 =

Country =

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Dear

This letter responds to a letter dated November 5, 2002, and subsequent correspondence, requesting a ruling that Partnership be granted relief under §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations for an extension of time in which to make such an election under § 754 of the Internal Revenue Code.

Facts

According to the information submitted, Partnership is a general partnership formed under the laws of Country in Date 1 when A and B purchased interests in Partnership from X. In Date 2, Year 1, A purchased the remainder of X's interest in Partnership, and in Date 3, Year 1, C, a subsidiary of A, purchased an interest in Partnership from A. Partnership intended to file an election under § 754 for Year 1, but, due to an error, the election was not timely filed.

Law and Analysis

Under § 754, 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 for which the election is filed and all subsequent years.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under § 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 § 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 an election whose deadline 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 301.9100-2 and 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. 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

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the government.

Conclusion

In this case, Partnership has established that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, Partnership is granted an extension of time of sixty (60) days following the date of this letter to make a § 754 election effective the Year 1 taxable year and subsequent years. The election should be made in a written statement filed with the applicable service center for association with Partnership's return. A copy of this letter should be attached to the statement filed. A copy of this letter is enclosed for that purpose.

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 Partnership 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.

Pursuant to a power of attorney on file with this office, we are a copy of this letter to your authorized representative.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes

cc: