

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01 – PLR-161556-03

Date:

Jan 13 2004

Legend:

X =

Y =

State =

Date 1 =

Dear

This letter responds to your request, dated October 14, 2003, on behalf of X, for permission to file a late section 754 election under section 301.9100 of the Procedure and Administration Regulations.

Facts

Based on the materials submitted and representations within, we understand the relevant facts to be follows. X is a partnership formed in accordance with the laws of State. Y, a partner in X, died on Date 1. X's partnership return was timely filed, but inadvertently a section 754 election to adjust the basis of partnership property was not filed with the return.

### Law and Analysis

Under section 754 of the Internal Revenue Code, 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 with respect to which the election was filed and all subsequent years.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under section 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 section 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 including an election whose deadline is prescribed by a regulation 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 301.9100-1(a).

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions for time for making elections that do not meet the requirements of section 301.9100-2.

### Conclusions

Based on the information submitted and the representations made, we conclude that the requirements of section sections 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of sixty (60) days following the date of this letter to make a section 754 election. The election should be made in a written statement filed with the applicable service center for association with X's return. A copy of this letter should be attached to the statement filed. A copy of this letter is enclosed for that purpose.

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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 or not 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.

Pursuant to the Power of Attorney on file with this office, a copy of this ruling will be sent to the taxpayer representative.

Sincerely,

Heather C. Maloy  
Associate Area Counsel  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

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