

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B01-PLR-108862-02

Date:

April 16, 2002

Legend:

X =

Y =

Z =

State 1 =

Date 1 =

Date 2 =

Dear :

This private letter ruling responds to your request, dated February 7, 2002, submitted on behalf of X, seeking a written determination granting an extension of time to file a section 754 election under section 9100 of the Internal Revenue Code.

Facts

Based on the materials submitted and representations made therein, the relevant facts appear to be as follows. X was formed as a State 1 limited partnership and commenced operations on Date 1. On Date 2, Y sold its general partner interest to Z. In connection with the sale, X erroneously believed that it had already made a valid section 754 election for a previous tax year and thus, did not file a section 754 election for the year of the sale. X now represents that, upon further investigation, it did not already have a valid section 754 election on file with the Internal Revenue Service.

X is seeking to be granted an extension of time to make a section 754 election. X maintains that neither it nor any other parties involved have been notified of the Internal Revenue Service's discovery of the failure to make a timely section 754 election as of the date of filing this request. X represents that it has acted reasonably and is not using hindsight in making the election and that the interests of the

PLR-108862-02

government will not be prejudiced by granting relief.

Law and Analysis

Under section 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 that the election applies 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) of the Procedure and Administration Regulations, 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 section 301.9100-2. Requests for relief under section 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.

Conclusions

Based on the information submitted and the representations made, we conclude that the requirements of 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.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the transactions described above under any other

PLR-108862-02

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(s) requesting 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, a copy of this letter will be sent to the taxpayer.

Sincerely,
/s/
Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)

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