

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

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Refer Reply To:

CC:PSI:Br.1-PLR-129475-00

Date:

February 13, 2001

Legend:

LP =

State =

D1 =

This letter responds to your December 1, 2000 request for a private letter ruling, submitted on behalf of LP, requesting a time extension under § 301.9100-3 of the Procedure and Administration Regulations.

FACTS

According to the information submitted, LP is a State limited partnership that previously made an election to adjust the basis of partnership property pursuant to § 754 of the Internal Revenue Code. LP intended to revoke its § 754 election effective December 15, 1999 pursuant to § 1.754-1(c)(2). However, LP inadvertently failed to file timely its return for the year ending D1.

LAW AND ANALYSIS

Section 1.754-1(c)(1) of the regulations provides the general rule that a partnership having an election in effect under § 754 may revoke that election only with the approval of the director for the internal revenue district in which the partnership return is required to be filed.

Section 1.754-1(c)(2) of the regulations provides that notwithstanding § 1.754-1(c)(1), any partnership having an election in effect under § 754 for its taxable year that includes December 15, 1999 may revoke such election effective for transfers or distributions occurring on or after December 15, 1999, by attaching a statement to the partnership's return for such year. For the revocation to be valid, the statement must be filed not later than the time prescribed by § 1.6031(a)-1(e) (including extensions thereof) for filing the return for such taxable year.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable

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extensions of time to make regulatory elections under the rules of §§ 301.9100-2 and 301.9100-3. Under § 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register or a notice published in the Internal Revenue Bulletin.

Section 301.9100-3 sets forth the standards which the Commissioner uses to determine whether to grant a discretionary time extension. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence proving 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.

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that LP has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, LP is granted an extension of time for revoking its election under § 754, effective December 15, 1999, until 60 days following the date of this letter. LP should revoke its election by filing the statement described in § 1.754-1(c)(2) of the regulations. A copy of this letter should be attached to that statement.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code 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 is being sent to the taxpayer and to the taxpayer's second authorized representative.

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

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