

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:3-PLR-107148-00

Date:

September 21, 2000

Legend:

Partnership =

Parent =

Partner A =

Partner B =

X =

Date =

Dear

This letter responds to a submission on behalf of Partnership, dated March 22, 2000, and subsequent correspondences, seeking an extension of time to petition the District Director for X under prior § 1.755-1(a)(2) of the Income Tax Regulations to make an alternative basis allocation under § 743(b) of the Internal Revenue Code.

FACTS

The following facts are represented. On Date, Partner A and Partner B were purchased by Parent. An election under § 338(h)(10) was made for both purchases, and which caused the interests in Partnership held by Partner A and Partner B to be treated as transferred. Partnership had a valid election under § 754 in effect that resulted in special basis adjustments under § 743(b) with respect to the transferred interests. For the year in question, the allocation of the special basis adjustment would have been determined under prior § 1.755-1(a)(1). Partnership intended to petition the District Director for X under prior § 1.755-1(a)(2) for permission to use an alternative allocation method. The allocation method that Partnership would have requested is consistent with the allocation method required by current § 1.755-1(a)(1). However, Partnership did not timely file such application.

DISCUSSION

Section 743(a) indicates that the basis of partnership property shall not be adjusted as the result of a transfer of an interest in a partnership by sale or exchange or on the death of a partner unless the election provided by § 754 (relating to optional adjustment to basis of partnership property) is in effect with respect to such partnership.

If the election under § 754 is in effect, then § 743(b) indicates that in the case of a transfer of a partnership interest by sale or exchange or upon the death of a partner, the partnership shall increase the adjusted basis of the partnership property by the excess of the basis to the transferee partner of his interest in the partnership over his proportionate share of the adjusted basis of the partnership property, or decrease the adjusted basis of the partnership property by the excess of the transferee partner's proportionate share of the adjusted basis of the partnership property over the basis of his interest in the partnership. Section 743(c) indicates that such basis allocation shall be made in accordance with the rules provided in § 755.

For the transfer in issue, prior § 1.755-1(a)(1) provided the method for allocating the basis adjustment required by § 743(b). Prior § 1.755-1(a)(2) also permitted a partnership to request permission from the District Director to use an alternative allocation method. Under the terms of prior § 1.755-1(a)(2), the partnership needed to request permission no later than 30 days after the close of the partnership's taxable year in which the proposed adjustment was to be made.

Section 301.9100-1(c) of the Procedure and Administration Regulations provides that 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 Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term "election" as including an application for relief in respect of tax. Section 301.9100-1(b) also defines the term "regulatory election" as an election whose due date 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 301.9100-1 through 301.9100-3 provide the standards the Commissioner uses to determine whether to grant an extension of time to make a regulatory 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.

Section 301.9100-3(a) provides that requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish 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

In the present situation, the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Therefore, Partnership is granted an extension of time until 60 days following the date of this letter to petition the District Director for X under prior § 1.755-1(a)(2) for permission to use an alternative allocation method. A copy of this letter should be attached to the election and is included for that purpose.

The rulings contained in this letter are based upon information and representations submitted by Partnership and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

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. In particular, no opinion is expressed on the valuations that underlie Partnership's proposed alternative allocation method or whether the District Director should grant permission to use an alternative basis allocation method.

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.

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

Attachments:
Copy of this letter
Copy for section 6110 purposes