

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:3 PLR-119126-00
Date:
March 23, 2001

LEGEND:

X =

A =

B =

D1 =

D2 =

n =

SB/SE Official =

Dear

This responds to your letter dated September 27, 2000, and subsequent correspondence submitted on behalf of X, requesting an extension of time for X to make an election under § 754 of the Internal Revenue Code.

FACTS

According to the information submitted, A, a partner in X, sold its n percent interest in X to B on D1 causing X to terminate under § 708(b)(1)(B). X filed a tax return for the short taxable year ending D1, but failed to file an election under § 754.

LAW AND ANALYSIS

Section 754 provides that a partnership may elect to adjust the basis of partnership property in the case of a distribution of property or in the case of a transfer of a partnership interest. The election applies with respect 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 such election is filed and all subsequent taxable 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 prescribed for filing the return for the taxable year, including extensions.

Under § 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" to include an election whose due date is prescribed by a regulation published in the Federal Register.

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 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 the Government. Section 301.9100-3(a).

CONCLUSION

In the present situation, the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, based solely on the facts submitted and the representations made, X is granted an extension of time of sixty (60) days following the date of this letter to make a § 754 election for its taxable year ending D1. The

election should be made in a written statement filed with the SB/SE Official for association with X's D2 tax return. A copy of this letter should be attached to the statement filed with the SB/SE Official. A copy of this letter is enclosed for that purpose.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the Code. Specifically, no opinion is expressed concerning whether X is a partnership for federal tax purposes.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Under the power of attorney on file in this office, we are sending a copy of this letter to your authorized representative.

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

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes