

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

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PLR-107365-08
Date: May 15, 2008

LEGEND

Estate =

A =

\$x =

Year 1 =

Year 2 =

Dear :

This responds to a letter dated February 12, 2008, submitted on behalf of Estate, requesting that the Service grant Estate an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 663(b) of the Internal Revenue Code.

The information submitted states that Estate files its income tax return on a calendar year basis. A, the executor of the Estate made a distribution in the amount of \$x (Distribution) within the first 65 days of Year 2. Estate included Distribution on its federal income tax return for Year 1 as permitted under § 663(b) but failed to make the § 663(b) election.

LAW & ANALYSIS

Section 663(b) provides that if within the first 65 days of any taxable year of an estate or trust, an amount is properly paid or credited, such amount shall be considered paid or credited on the last day of the preceding taxable year, provided that the executor of the estate or the fiduciary of the trust so elects in such manner and at such time as the Secretary prescribes by regulations.

Section 1.663(b)-2(a)(1) of the Income Tax Regulations provides that if a trust return is required to be filed for a trust's taxable year for which a § 663(b) election is to be made, the election is made in the appropriate place on the return. The election is made not later than the time prescribed by law for filing the return (including extensions thereof). The election is irrevocable after the last day prescribed for making it.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 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 "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.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief 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

Based solely on the information submitted and the representations made, we conclude that the requirements of § 301.9100-1 and § 301.9100-3 have been satisfied. As a result, Estate is granted an extension of time of 60 days from the date of this letter to make an election under § 663(b), by filing an income tax return, amended to include the election, for Year 1, with the appropriate service center, with a copy of this letter attached. A copy is enclosed for that purpose.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code.

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

Sincerely,

/s/

William P. O'Shea
Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes