

Internal Revenue Service

Department of the Treasury

Index Number: 9100.00-00

Washington, DC 20224

Number: **200038018**
Release Date: 9/22/2000

Person to Contact:

Telephone Number:

Refer Reply To:
PLR-109458-00 CC:DOM:P&SI:3
Date:
June 22, 2000

LEGEND

Partnership =
X =
d =

Dear

This responds to a letter submitted on behalf of Partnership requesting that Partnership be given an extension of time in which to make an election under § 754 of the Internal Revenue Code.

FACTS

X, a partner in Partnership, died on d. Partnership's tax return for the taxable year was filed without a § 754 election.

Partnership represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the government, and that it is not using hindsight in making the election.

LAW AND ANALYSIS

Under § 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 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 for filing 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, if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting the relief will not prejudice the interests of the government. 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 § 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.

CONCLUSION

In the present situation, the requirements of §§ 301.9100-1 and 301-9100-3 have been satisfied. As a result, Partnership is granted an extension of time of thirty (30) days following the date of this letter to make a § 754 election. The election should be made in a written statement filed with the District Director for association with Partnership's tax return. A copy of this letter should be attached to the statement filed with the District Director. A copy of this letter is enclosed for that purpose.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by the 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 specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described under any other provision of the Code. Specifically, no opinion is expressed concerning whether Partnership is a partnership for federal tax purposes.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6100(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to the taxpayer.

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