

Internal Revenue Service

Number: **200617015**

Release Date: 4/28/2006

Index Number: 9100.12-00, 663.04-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B02

PLR-145662-05

Date:

January 06, 2006

Estate =

Year =

1

D1 =

D2 =

D3 =

x =

Dear :

This letter responds to a letter dated August 3, 2005, and subsequent correspondence, submitted on behalf of Estate by its authorized representative, 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 federal income tax return on fiscal year basis, with the taxable year ending D1. On D2 of Year 1 (which is within sixty-five days following the close of the taxable year ending D1 of Year 1), the executor of Estate made a distribution of \$x. The executor of Estate intended to file a § 663(b) election with regard to this distribution, but due to inadvertence the election was not timely filed. The return and election were filed on D3.

Section 663(b)(1) provides that in general, if within the first 65 days of any taxable year of an estate or a 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.

Section 663(b)(2) provides that § 663(b)(1) shall apply with respect to any taxable year of an estate or trust only if the executor of such estate or the fiduciary of such trust (as the case may be) elects, in such manner and at such time as the Secretary prescribes by regulations, to have § 663(b)(1) apply for such taxable year.

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

Under § 301.9100-1(c), 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 E, G, H, and I. 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). Section 301.9100-1(b) defines a regulatory election to include 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 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.

Based on the information submitted and the representations made, we conclude that Estate has satisfied the requirements of § 301.9100-3. As a result, Estate is granted an extension of time to file an election under § 663(b) for the Estate's taxable year ending D1 of Year 1. We will consider the election made with the return for Estate's taxable year ending D1 of Year 1, filed on D3, to be timely filed. A copy of this letter should be sent, within sixty days from the date of this letter, to the service center where Estate files its returns to be associated with that return. A copy is included for that purpose.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transactions described above under any other provisions of the Code.

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

Pursuant to a power of attorney on file, a copy of this letter is being sent to Estate's authorized representative.

Sincerely,

HEATHER C. MALOY
Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures: 2

Copy of this letter

Copy for § 6110 purposes