

**Internal Revenue Service**

Department of the Treasury

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Person to Contact:

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Telephone Number:

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Date:

February 14, 2000

Partnership =

B =

Trust =

Date =

Year 1 =

Year 2 =

Dear :

This letter responds to your August 17, 1999 ruling request and subsequent correspondence submitted as the Tax Matters Partner for Partnership, asking that the Service grant Partnership an extension of time to make an election under § 754 of the Internal Revenue Code.

B, the primary beneficiary of a qualified terminable interest trust (Trust), died on Date of Year 1. The assets of Trust were included in B's estate for federal estate tax purposes. In addition, pursuant to the terms of Trust, Trust terminated upon B's death. Before B's death, Trust was a partner of Partnership. Partnership filed its Year 1 and Year 2 partnership returns without a § 754 election.

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 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 shall be 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 not later than the time prescribed for filing the return for such taxable year, including extensions thereof.

Section 1.754-1(b) refers to § 1.9100-1 (now § 301.9100 of the Procedure and Administrative Regulations) for rules regarding extensions of time for filing elections.

Section 301.9100-1(c) provides that the Commissioner has the discretion to grant a reasonable extension of the time, under the rules set forth in §§ 301.9100-2 and 301.9100-3, to make a regulatory election. Section 301.9100-1(b) defines 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 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

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 (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

In this case, the requirements of § 301.9100-3 have been met. Consequently, Partnership is granted an extension of time for making the election until 30 days following the date of this letter. The election should be made in a written statement filed with the District Director for association with Partnership's Year 1 and Year 2 tax returns. A copy of this letter should be attached to the statement filed with the District Director. Enclosed is a copy for that purpose. This letter is conditioned on the timely filing of amended returns affected by the § 754 election, consistent with having the election in place.

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

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

Pursuant to the power of attorney on file in this office, a copy of this letter will be sent to Partnership's authorized representative.

Sincerely,

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

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