

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:2 - PLR-114986-00

Date:

Aug 6, 2001

Partnership =

A =

D1 =

Year 1 =

Year 2 =

Chief, Planning & =
Special Programs,
Area 8

Dear :

This responds to your letter dated July 31, 2000, and subsequent correspondence, that you submitted on Partnership's behalf, requesting an extension of time to make an election under § 754 of the Internal Revenue Code.

On D1, A, a partner in Partnership, died. Partnership's return for the Year 1 taxable year was filed 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 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 and this section to adjust the basis of partnership property under §§ 734(b)

and 743(b), with respect to a distribution of property to a partner or a transfer of an interest in a partnership, shall be made in a written statement filed with the partnership return for the tax 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 by § 1.6031(a)-1(e) (including extensions thereof) for filing the return for that tax year.

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.

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 301.9100-2 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.

In this case, based on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Consequently, Partnership is granted an extension of time for making the § 754 election until thirty days following the date of this letter. The election should be made in a written statement filed with the Chief, Planning & Special Programs, Area 8, for association with Partnership's tax return. A copy of this letter should be attached to the statement filed with the District Director. Enclosed is a copy for that purpose.

As a condition for this late election relief, any allowable depreciation deduction for Year 1 on property held by the Partnership is to be computed using property basis unadjusted under § 743(b) because of A's death. Any depreciation deduction subsequently allowable, beginning in Year 2, is to be computed based on the remaining useful life and using property basis as adjusted by the greater of any depreciation deduction allowed or allowable in Year 1 had the § 754 election been timely made.

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 who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to Partnership.

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

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