

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Refer Reply To:

CC:PSI:2 – PLR-142512-05

Date:

December 05, 2005

Legend

GP:

EIN:

A:

B:

State:

x%:

D1:

D2:

Dear _____ :

This responds to a letter dated July 28, 2005, submitted on behalf of GP, requesting that the Service grant GP an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make an election under § 754 of the Internal Revenue Code

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The information submitted states that GP is general partnership formed under the laws of State. A owned an x% interest in GP. On D1, A merged with B. B was the surviving corporation in the merger. As a result of the merger, the x% interest in GP held by A was transferred to B. GP terminated under § 708(b)(1)(B) as a result of the transfer of A's x% interest in GP to B. GP inadvertently failed to timely file a § 754 election for the taxable year ending D2 on behalf of the new partnership.

Section 754 provides that if a partnership files an election, in accordance with the regulations prescribed by the Secretary, the basis of partnership property is adjusted, in the case of a transfer of a partnership interest, in the manner provided in § 743. Such an election shall apply 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 the election was filed and all subsequent taxable years.

Section 1.754-1(b) of the Income Tax Regulations provides that an election under § 754 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 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 by § 1.6031-1(e) (including extensions thereof) for filing the return for that taxable year.

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.

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, GP is granted an extension of time for 60 days from the date of this letter to make an election under § 754 on behalf of the new partnership, effective for the year ending D2, with the appropriate service center. A copy of this letter should be attached to the § 754 election. A copy is enclosed for that purpose.

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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. Specifically, no opinion is expressed or implied concerning whether GP is a partnership for federal tax purposes.

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.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to GP's authorized representatives.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes