Internal Revenue Service

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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:B01
PLR-127915-18

Date:
March 26, 2019

LEGEND:

Estate =

Date 1 =

Date 2 =

Date 3 =

x =

Dear :

This letter responds to a letter dated September 18, 2018, 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.

Facts

Estate files its federal income tax return on a fiscal year basis with the year ending Date 1. Estate made a distribution in the amount of $x (the Distribution) within the first sixty-five days of the fiscal year ending on Date 3, and intended to have the Distribution considered to be paid or credited on the last day of the fiscal year ending on Date 2 as permitted under § 663(b). However, due to inadvertence, the § 663(b) election was not timely filed.

Law and Analysis

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 a 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 trust return is required to be filed for the taxable year of the trust 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.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but not more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I. Section 301.9100-1(b) provides that the term “regulatory election” includes an election whose due date is prescribed by a regulation published in the Federal Register.

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.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

Conclusion

Based solely on the facts submitted and representations made, we conclude that Estate has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, Estate is granted an extension of time of 120 days from the date of this letter to file an election under § 663(b). The election should be made by filing an income tax return for the year ending on Date 2, amended to include the election, with the appropriate service center. A copy of this letter should be attached to the amended return.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election. Finally, we express or imply no opinion concerning whether the distributions were property paid or credited and in the proper amounts.

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent Estate's authorized representative.

Sincerely,

Faith Colson
Faith Colson
Senior Counsel, Branch 1
(Passthroughs & Special Industries)

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