

# TaxNewsFlash

## United States

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### **Proposed regulations: Removal of signature requirement from section 754 elections**

The U.S. Treasury Department and IRS today released for publication in the Federal Register a notice of proposed rulemaking (REG-116256-17) that proposes amending the regulations under section 754 to remove the signature requirement for partnerships and their partners in making a valid election to adjust the basis of partnership property.

Today's [proposed regulations](#) [PDF 211 KB] note that taxpayers may rely on the proposed regulations for periods prior to the regulations being finalized in the Federal Register.

#### **Background**

A partnership may file an election under section 754 to adjust the basis of partnership property for a distribution of cash or property and for transfers 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 tax year for which the election was filed and for all subsequent tax years.

The current regulations specify the method to make the section 754 election, among other things requiring a written statement to be filed with the partnership return for the tax year during which the distribution or transfer occurs. For the section 754 election to be valid, the current regulations require that the section 754 election statement contain certain information and be signed by any one of the partners.

Accordingly, under the current regulations, a partnership that files an unsigned section 754 election statement with its partnership return (whether filed electronically or in paper) has not made a valid section 754 election. Currently, the only remedy to correct this omission is to request "9100 relief" to make a late section 754 election either through automatic relief or a private letter ruling request.

## **Reason for proposed regulations**

The preamble to today's release indicates that the IRS has received numerous requests for 9100 relief for unsigned section 754 election statements, especially electronically filed returns.

To ease the burden on partnerships seeking to make a valid section 754 election and to eliminate the need to seek 9100 relief, Treasury and the IRS are proposing to amend the current regulations to remove the signature requirement in Reg. section 1.754-1(b)(1).

As noted above, the proposed amendments to the regulations are to apply to tax years ending on or after the date of the rules are finalized in the Federal Register. Taxpayers, however, may rely on today's proposed regulations for periods preceding the proposed applicability date.

## **KPMG observation**

The current requirement of having a partner sign a separate election statement and attach it to an electronically filed partnership return, Form 1065, is frequently missed. Therefore the proposed regulations, which can be relied upon immediately, is expected to significantly reduce the compliance burden in making the section 754 election.

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