



# TaxNewsFlash

## United States



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## Final regulations: Removal of signature requirement for section 754 elections

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations under section 754 to remove the signature requirement in Reg. section 1.754-1(b)(1) for partnerships and their partners in making a valid election to adjust the basis of partnership property.

Today's [final regulations](#) [PDF 97 KB] finalize regulations that were proposed in October 2017. According to the preamble:

*The IRS did not receive any substantive written public comments in response to the notice of proposed rulemaking. No public hearing was requested or held. Therefore, the proposed regulations are adopted by this Treasury decision without change.*

### Summary

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.

Previously, the regulations specified the method to make the section 754 election, and among other things, required 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 section 754 election statement was required to contain certain information and to be signed by any one of the partners. Accordingly, a partnership that filed an unsigned section 754 election statement with its partnership return (whether filed electronically or in paper) was determined not to have made a valid section 754 election, and the only remedy to correct this omission was to request "9100 relief" to make a late section 754 election, either through automatic relief or a private letter ruling request.

Treasury and the IRS issued proposed regulations in October 2017 to ease the burden on partnerships seeking to make a valid section 754 election and to eliminate the need to seek 9100 relief by removing the signature requirement in Reg. section 1.754-1(b)(1).

The final regulations released today adopt the October 2017 proposed regulations “without change” and thus remove the signature requirement and reduce regulatory burden in making an election to adjust the basis of partnership property. The final regulations will be published in the Federal Register on August 5, 2022.

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