

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B04 – PLR-147888-03

Date: AUGUST 04, 2004

In Re:

Legend:

Decedent =

Date 1 =

Co-Executors =

Attorneys =

Date 2 =

Date 3 =

Dear

..:

This is in response to your August 8, 2003 letter, and subsequent correspondence, in which you request an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an alternate valuation election under § 2032 of the Internal Revenue Code with respect to the decedent's estate.

The facts and representations submitted are as follows: Decedent died on Date 1. Co-Executors of Decedent's estate hired Attorneys to prepare the Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, for Decedent's estate and advise them on estate tax matters. Attorneys did not advise Co-Executors to make the alternate valuation election under § 2032. On Date 2 the estate timely filed the estate tax return for Decedent's estate.

On Date 3, Co-Executors filed a Supplemental Form 706, making an alternate valuation election under § 2032 for Decedent's estate and submitted a letter ruling request seeking an extension of time to make the election with respect to Decedent's estate.

Law and Analysis:

Section 2032(a) provides that the value of the gross estate may be determined, if the executor so elects, by valuing all the property included in the gross estate as follows:

(1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.

(2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date 6 months after the decedent's death.

(3) Any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time.

Section 2032(c) provides that no election may be made under § 2032 with respect to an estate unless such election will decrease (1) the value of the gross estate, and (2) the sum of the tax imposed by this chapter and the tax imposed by chapter 13 with respect to property includible in the decedent's gross estate (reduced by credits allowable against such taxes).

Section 2032(d)(1) provides that an election under § 2032 shall be made by the executor on the return of tax imposed by section 2001. Such election, once made, shall be irrevocable. Under § 2032(d)(1), no election may be made under § 2032 if such return is filed more than one year after the time prescribed by law (including extensions) for filing such return.

Under section 301.9100-1(c), 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 no 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 301.9100-2 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 section 301.9100-2.

Section 301.9100-3 provides the standards used to determine whether to grant an extension of time to make an election whose due date is prescribed by a regulation (and not expressly provided by statute).

Requests for relief under section 301.9100-3 will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1)(v) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c)(1) provides, in part, that the Commissioner will grant a reasonable extension of time to make a regulatory election only when the interests of the government will not be prejudiced by the granting of relief.

Based on the information submitted and the representations made, the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, an extension of time is granted until Date 3 to make an alternate valuation election under § 2032 with respect to Decedent's estate.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, we express or imply no opinion on the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter under any other provisions of the Code.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to the taxpayer.

A copy of this letter should be filed with the Cincinnati Service Center -- Stop 82, Internal Revenue Service, Cincinnati, OH 45999.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

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

Enclosure

Copy for section 6110 purposes  
Copy of this letter

cc: