

Part III - Administrative, Procedural, and Miscellaneous

Date for Compliance with Consistent Basis Reporting Between Estate and Person Acquiring Property from Decedent

Notice

SECTION 1: PURPOSE

On July 31, 2015, the President of the United States signed into law the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*, Public Law 114-41, 129 Stat. 443 (Act). Section 2004 of the Act added new sections 1014(f) and 6035. On August 21, 2015, the Treasury Department and the IRS issued Notice 2015-57, 2015-36 IRB 294. That notice delayed until February 29, 2016, the due date for any statements required under section 6035(a)(3)(A) to be provided before February 29, 2016. On February 11, 2016, the IRS issued Notice 2016-19, 2016-09 IRB 362, to provide that executors and other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016. On March 4, 2016, the Treasury Department and the IRS published temporary and proposed regulations under sections 1014(f) and 6035. TD 9757, 81 FR 11431; REG-127923-15, 81 FR 11486. This notice provides that executors and other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before June 30, 2016, need not do so until June 30, 2016.

SECTION 2: BACKGROUND

Section 1014(f) provides rules requiring that the basis of certain property acquired from a decedent, as determined under section 1014, may not exceed the value of that property as finally determined for federal estate tax purposes, or if not finally

determined, the value of that property as reported on a statement made under section 6035.

Section 6035 imposes new reporting requirements with regard to the value of property included in a decedent's gross estate for federal estate tax purposes.

Section 6035(a)(1) provides that the executor of any estate required to file a return under section 6018(a) must furnish, both to the Secretary and to the person acquiring any interest in property included in the decedent's gross estate for federal estate tax purposes, a statement identifying the value of each interest in such property as reported on such return and such other information with respect to such interest as the Secretary may prescribe.

Section 6035(a)(2) provides that each person required to file a return under section 6018(b) must furnish, both to the Secretary and to each other person who holds a legal or beneficial interest in the property to which such return relates, a statement identifying the information described in section 6035(a)(1).

Section 6035(a)(3)(A) provides that each statement required to be furnished under section 6035(a)(1) or (a)(2) is to be furnished at such time as the Secretary may prescribe, but in no case at a time later than the earlier of (i) the date which is 30 days after the date on which the return under section 6018 was required to be filed (including extensions, if any) or (ii) the date which is 30 days after the date such return is filed.

Section 6035(b) authorizes the Secretary to prescribe such regulations as necessary to carry out section 6035. Section 7805(a) provides generally that the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration

of law in relation to internal revenue. Section 7805(b)(2) provides that regulations may apply retroactively if they are issued within 18 months of the date of the enactment of the statutory provision to which they relate.

SECTION 3: GUIDANCE

The Treasury Department and the IRS have received numerous comments that executors and other persons have not had sufficient time to adopt the systemic changes that would enable the filing of an accurate and complete Form 8971 and Schedule A. Accordingly, statements required under sections 6035(a)(1) and (a)(2) to be filed with the IRS or furnished to a beneficiary before June 30, 2016, need not be filed with the IRS and furnished to a beneficiary until June 30, 2016.

SECTION 4: EFFECTIVE DATE

This notice is effective on March 23, 2016. This notice applies to executors of the estates of decedents and to other persons who are required under section 6018(a) or (b) to file a return if that return is filed after July 31, 2015.

DRAFTING INFORMATION

The principal author of this notice is Eliezer Mishory of the Office of the Associate Chief Counsel (Procedure & Administration). For further information regarding this notice, please contact Theresa Melchiorre at (202) 317-6859 (not a toll-free call).