

Part III - Administrative, Procedural, and Miscellaneous

Guidance Relating to the Availability and Use of an Account Transcript as a Substitute for an Estate Tax Closing Letter

Notice 2017-12

SECTION 1. PURPOSE

This notice provides guidance on the methods available to confirm the closing of an examination of the estate tax return (Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return). More specifically, this notice announces that an account transcript issued by the Internal Revenue Service (IRS) can substitute for an estate tax closing letter (Letter 627).

SECTION 2. BACKGROUND

An estate tax closing letter is a written communication from the IRS that specifies the amount of the net estate tax, the state death tax credit or deduction, and any generation-skipping transfer tax for which the estate is liable; however, it does not indicate how much has been paid in estate tax or generation-skipping transfer tax.

Notably, the estate tax closing letter also confirms that the estate tax return has

either been accepted by the IRS as filed, or has been accepted after an adjustment by the IRS to which the estate has agreed. Thus, the receipt of an estate tax closing letter generally indicates that, for purposes of determining the estate tax liability of the decedent's estate, the IRS examination of the estate tax return is closed. An estate tax closing letter, however, is not a formal closing agreement and, as section 5 of Rev. Proc. 2005-32, 2005-1 C.B. 1206, and the estate tax closing letter provide, its issuance does not prevent the IRS from reopening or reexamining the estate tax return to determine estate tax liability if there is (1) evidence of fraud, malfeasance, collusion, concealment, or misrepresentation of a material fact, (2) a clearly-defined, substantial error based upon an established IRS position, or (3) another circumstance indicating that a failure to reopen the case would be a serious administrative omission. In addition, in the case of the estate of a decedent (survived by a spouse) that elects portability of the deceased spousal unused exclusion (DSUE) amount, the issuance of an estate tax closing letter does not prevent the IRS from examining the estate tax return of that decedent for the purpose of determining the transfer tax liability of the surviving spouse of that decedent (specifically, the DSUE amount to be included in the applicable exclusion amount of the surviving spouse). See § 2010(c)(5)(B) of the Internal Revenue Code and §§ 20.2010-2(d) and 20.2010-3(d) of the Estate Tax Regulations.

Prior to June 1, 2015, the IRS issued an estate tax closing letter for every estate tax return filed (except in the case of an estate tax return filed for the purpose of electing

portability under § 2010(c)(5)(A) when the estate had no filing requirement under § 6018(a) and the portability election was denied). However, for estate tax returns filed on or after June 1, 2015, the IRS changed its policy and now will issue an estate tax closing letter only at the request of an estate, which request is to be made at least four months after the filing of the estate tax return.

SECTION 3. DISCUSSION

The Treasury Department and IRS understand that executors, local probate courts, state tax departments, and others have come to rely on estate tax closing letters for confirmation that the IRS examination of the estate tax return has been completed and the IRS file has been closed. Estate tax closing letters continue to be available upon request. However, an account transcript may substitute for an estate tax closing letter and is available at no charge.

An account transcript is a computer-generated report that provides current account data. The information reported on an account transcript includes, but is not limited to, the return received date, payment history, refund history, penalties assessed, interest assessed, the balance due with accruals, and the date on which the examination was closed. An account transcript presents this account data by including transaction codes together with the descriptions of those codes. An account transcript that includes transaction code “421” and the explanation “Closed examination of tax return” indicates that the IRS’s examination of the estate tax return has been completed and that the IRS examination is closed. Thus, the issuance of an estate tax closing

letter and the entry of code “421” on the estate’s account transcript each independently confirms that the IRS’s examination of the estate tax return has been completed, and may be reopened to determine the estate tax liability of a decedent only in the circumstances described in both the closing letter and Rev. Proc. 2005-32. Accordingly, an account transcript showing a transaction code of “421” can serve as the functional equivalent of an estate tax closing letter.

SECTION 4. GUIDANCE

For confirmation that the IRS examination of an estate tax return has been completed and is closed, estates and their authorized representatives can request an account transcript in lieu of an estate tax closing letter. Receipt of an account transcript with a transaction code of “421,” like receipt of an estate tax closing letter, confirms the closing of the IRS examination of the estate tax return. The IRS may reopen the examination of the estate tax return after the issuance of a closing letter or the entry of transaction code “421” on the account transcript for the purpose of determining the estate tax liability of a decedent in a circumstance described in both the closing letter and Rev. Proc. 2005-32. Further, as provided in § 2010(c)(5)(B) and §§ 20.2010-2(d) and 20.2010-3(d), the IRS may examine the estate tax return of a decedent after the issuance of a closing letter or the entry of transaction code “421” on the account transcript for the purpose of determining the transfer tax liability of the surviving spouse of that decedent when portability has been elected.

Estates and their authorized representatives may request an account transcript

by filing Form 4506-T, Request for Transcript of Tax Return. Currently, Form 4506-T can be filed with the IRS via mail or facsimile (per the instructions on the form).

Although account transcripts for estate tax returns are not currently available through the IRS's online Transcript Delivery System, the IRS website, www.irs.gov, will have current information should an automated method become operational. To allow time for processing the estate tax return, requests should be made no earlier than four months after filing the estate tax return.

For those who wish to continue to receive estate tax closing letters, estates and their authorized representatives may call the IRS at (866) 699-4083 to request an estate tax closing letter no earlier than four months after the filing of the estate tax return.

DRAFTING INFORMATION

The principal author of this notice is Lane Damazo of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Lane Damazo on (202) 317-6859 (not a toll-free call).