

**Internal Revenue Service**

Department of the Treasury

Index Number: 9100.00-00; 2032.00-00 Washington, DC 20224

Number: **200021021**  
Release Date: 5/26/2000

Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:4-PLR-118678-99

Date:

February 18, 2000

Re:

Legend

Decedent =

Date 1 =

Date 2 =

Date 3 =

Dear :

This responds to your letter dated November 18, 1999, on behalf of Decedent's estate requesting an extension of time under § 301.9100-1 of the Procedure and Administration Regulations to make the alternate valuation election under § 2032(a) of the Internal Revenue Code.

Decedent died on Date 1 and Decedent's estate timely filed a federal estate tax return on Date 2. However, the executor did not make the election under § 2032 to value the estate as of the alternate valuation date. On Date 3, the executor filed supplemental information on Form 706, as described in § 20.6081-1(c), reflecting the value of the gross estate as of the applicable alternate valuation date. In addition, the executor checked the appropriate box on Part 3 of the Form 706 to make the election. As reflected on the supplemental return, the alternate valuation election results in a decrease in the value of the gross estate and the amount of federal estate tax due. Date 3 is not more than one year after the time prescribed by law (including extensions) for filing the estate tax return.

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, exchange, or otherwise

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disposed of within six 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, exchange, or otherwise disposed of, within six months after the decedent's death such property shall be valued as of the date six 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 under § 2032 may be made with respect to an estate unless such election will decrease: (1) the value of the gross estate; and (2) the sum of the estate tax imposed and the generation-skipping transfer tax imposed 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 § 2001. Such an election, once made, shall be irrevocable. Under § 2032(d)(2), 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 § 301.9100-1(c), the Commissioner may grant a reasonable extension of time 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 Internal Revenue Code except Subtitles E, G, H, and I, if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer has acted reasonably and in good faith, and granting relief will not prejudice the interests of the government. Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. § 301.9100-1(a).

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 § 301.9100-2.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish that the taxpayer acted reasonably and in good faith, and granting relief will not prejudice the interests of the government. § 301.9100-3(a).

In this case, the standards of §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, an extension of time is granted until Date 3 for making an election under § 2032.

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Except as specifically ruled herein, we express no opinion on the federal tax consequences of the transaction under the cited provisions or under any other provisions of the Code.

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

Pursuant to the power of attorney on file with this office, a copy of this ruling has been sent to the taxpayer.

Sincerely yours,  
Paul F. Kugler  
Assistant Chief Counsel  
(Passthroughs and Special Industries)

Enclosure

Copy for § 6110 purposes