



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

October 3, 2001

Number: **INFO 2001-0269**
Release Date: 12/31/2001
UIL# 2001.00-00

[REDACTED]

Dear [REDACTED]:

Your letter dated January 4, 2001 to [REDACTED], was referred to our office for reply. In your letter, you asked whether the federal government could return the estate taxes paid by [REDACTED] executor to [REDACTED], your daughter, who is the beneficiary of [REDACTED] estate. Several months ago, we addressed your concern in a letter to [REDACTED] office. We are following up with this letter to you.

We would like to express our condolences for the tragic loss of [REDACTED] and the devastating impact that loss has had on you and your daughter [REDACTED]. We regret to advise you that it is not possible to issue a refund in this case since the estate taxes paid were proper under the Internal Revenue Code in 1999, and there were and are no circumstances, even in a tragic case like this, where liability for such taxes may be waived.

The estate tax is imposed on the transfer of the taxable estate of every decedent. The taxable estate is the gross estate minus certain deductions allowed under the Code. The value of the gross estate includes the value of all property received by beneficiaries under the decedent's life insurance policies with respect to which he possessed at his death any incidents of ownership, exercisable alone or with any other person. We use the incidents-of-ownership test to determine if the insurance proceeds should be included in a decedent's gross estate when they are received by beneficiaries other than the executor. The life insurance policies were included in [REDACTED] gross estate resulting in an increase in the total tax. The only circumstance in which the taxes paid would be refundable is if [REDACTED] did not possess incidents of ownership in the policies. We do not have specific facts to make this determination and can only advise you to seek counsel if you believe an error was made in the return.

I hope this information is helpful. I am sorry we cannot offer a more positive response to you. If you have any questions or wish to discuss this matter, please call me or Julia Paris of our staff at (202) 622-3090.

Sincerely,

George Masnik
Chief, Branch 4
Associate Chief Counsel
(Passthroughs and Special Industries)