

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B04

PLR-163184-04

Date: JUNE 06, 2005

Re:

Legend

Decedent =

Date =

Dear :

This is in response to your letter dated April 12, 2005, and prior correspondence, submitted by your authorized representative, requesting an extension of time under § 301.9100 of the Procedure and Administration Regulations to make a qualified family-owned business election under § 2057(b)(1)(B) of the Internal Revenue Code.

The facts submitted and representations made are as follows: Decedent died on Date, prior to December 31, 2003. Decedent's gross estate consisted primarily of marketable securities and a majority interest in two closely-held businesses. Prior to filing Decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, the qualified family-owned business interest deduction was considered, but it was determined that the estate did not meet the threshold requirements to make the election.

On audit of Decedent's estate, it was determined that Decedent's estate satisfies the requirements for making the § 2057 election. Therefore, the estate requests an extension of time under §§ 301.9100-1 and 301.9100-3 to make the election.

Section 2057(a)(1) provides that for purposes of the tax imposed by § 2001, in the case of an estate of a decedent to which § 2057 applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent. Section 2057(a)(2) provides that the deduction allowed by § 2057 shall not exceed \$675,000.

Section 2057(b)(1)(B) provides that § 2057 shall apply to an estate if the executor elects the application of this section and files the agreement referred to in § 2057(h).

Section 2057(i)(3)(H) provides that, for purposes of making the election and filing the agreement under § 2057(b)(1)(B), rules similar to the rules under § 2032A(d)(1) and (3) (regarding the election of special use valuation of farm and other qualified real property) shall apply.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in sections 301.9100-2 and 301.9100-3 to make a regulatory election.

Section 301.9100-1 through 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).

Section 301.9100-3 sets forth the standards that the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner should grant relief when the taxpayer provides evidence proving to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

Based on the facts submitted and the representations made, we conclude that the Taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government. Therefore, an extension of time is granted until 60 days from the date of this letter for making an election under § 2057.

The ruling contained in this letter is 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. In particular, the burden is on the estate to establish to the Service's satisfaction that all of the requirements of § 2057 are met.

Except as specifically ruled herein, we express or imply no opinion on the federal tax consequences of the transaction under the cited provisions or under any other provisions of the Code. Specifically, we express or imply no opinion on whether the estate qualifies for the deduction under § 2057.

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

In accordance with a power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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

Enclosures

Copy for section 6110 purposes

cc: