

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201109012**
Release Date: 3/4/2011
Index Number: 2523.06-01, 9100.00-00

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B04
PLR-137172-10
Date: NOVEMBER 15, 2010

RE:

Legend

Spouse =
Trust =
Year 1 =

Dear :

On February 19, 2010, this office issued to you Private Letter Ruling 201025021. This ruling granted you an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an inter vivos qualified terminable interest property (QTIP) election under § 2523(f)(4) of the Internal Revenue Code for a Year 1 transfer of stock to Trust for the benefit of Spouse.

Since issuing the letter ruling, the Internal Revenue Service (the Service) has determined that the ruling was in error and not in accord with the current views of the Service. The time for filing the inter vivos QTIP election is expressly prescribed by § 2523(f)(4). Because § 301.9100-3 is applicable only to requests for extensions of time fixed by regulations or other published guidance, the Service does not have the discretion to grant an extension of time under § 301.9100-3 to make the QTIP election under § 2523(f)(4) for the Year 1 transfer to Trust. To the extent that Private Letter Ruling 201025021 rules otherwise, the letter ruling is in error.

Consistent with that decision, we have determined that Private Letter Ruling 201025021 should be revoked retroactively as of February 19, 2010. Furthermore, you may not rely upon the ruling after that date unless you obtain relief as described below.

Ordinarily, the revocation of a letter ruling is effective as of the date of its issuance. However, section 11.11 of Rev. Proc. 2010-1 provides that under certain circumstances, this retroactive effect may be limited. If you wish to limit the retroactive effect of this revocation, please follow the procedures described in section 11.11 to request relief under § 7805(b).

This letter does not constitute an adverse letter ruling with respect to the above issues. Nevertheless, you may request a conference to discuss this matter further. In accordance with the Power of Attorney currently on file with the Service, we are sending a copy of this letter to your authorized representatives.

Sincerely,

James F. Hogan
Chief, Branch 4
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)