

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

May 01, 2017

Third Party Communication: None
Date of Communication: Not Applicable

Number: **201734007**
Release Date: 8/25/2017
Index (UIL) No.: 7701.00-00
CASE-MIS No.: TAM-104049-17

CC:SB:2:PIT

Taxpayer's Name:
Taxpayer's Address:

Taxpayer's Identification No.:
Year(s) Involved:
Date of Conference:

LEGEND:

Decedent	=
Date 1	=
<u>X</u>	=
Date 2	=
State	=

ISSUES:

Whether Decedent and X were married, for federal tax purposes, when Decedent died on Date 1.

CONCLUSIONS:

Yes. Decedent and X were married, for federal tax purposes, when Decedent died.

FACTS:

In an Order dated Date 2, the State Board of Finance and Revenue concluded that Decedent and X had entered into a common-law marriage under State law and that “based on the specific facts and circumstances presented, Decedent and X were common-law spouses” when Decedent died on Date 1.

LAW AND ANALYSIS

Section 301.7701-18(b)(1) of the Procedure and Administration Regulations provides that a marriage of two individuals is recognized for federal tax purposes if the marriage is recognized by the state, possession, or territory of the United States in which the marriage is entered into, regardless of domicile. In this case, because the State Board of Finance and Revenue held that Decedent and X were married under State law when Decedent died on Date 1, their marriage is recognized for federal tax purposes.

CAVEAT(S):

A copy of this technical advice memorandum is to be given to the taxpayer. Section 6110(k)(3) provides that it may not be used or cited as precedent.