

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Re:

Refer Reply To:
CC:PSI:BO4
PLR-100853-23

Date:
April 26, 2023

Legend

Decedent =

Tax Professional =

Date 1 =

Date 2 =

Date 3 =

Dear :

This letter responds to your authorized representative's letter dated December 20, 2022, requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an alternate valuation election under § 2032 of the Internal Revenue Code (Code).

The facts and representations submitted are summarized as follows. Decedent died on Date 1. Decedent's estate retained Tax Professional to prepare Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. Decedent's estate timely filed Form 706 on Date 2. Tax Professional did not advise Decedent's estate of its option to elect alternate valuation under § 2032 on the Form 706, and, consequently, Decedent's estate did not elect alternate valuation under § 2032 on the Form 706.

On or about Date 3, which was within one year after the due date of the Form 706, Decedent's estate filed a supplemental Form 706 making the alternate valuation election under § 2032. Subsequently, Decedent's estate submitted this request for an extension of time under § 301.9100-3 to make the election.

LAW AND ANALYSIS

Section 2032(a) provides, in part, 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, exchanged, or otherwise disposed of, within 6 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, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date 6 months after the decedent's death.

Section 2032(c) provides that no election may be made under § 2032 with respect to an estate unless such election will decrease: (1) the value of the gross estate; and (2) the sum of the tax imposed under chapter 11 of the Code (estate tax) and the tax imposed by chapter 13 (generation-skipping transfer tax) 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 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.

Section 20.2032-1(b)(3) of the Estate Tax Regulations provides that a request for an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 will not be granted unless the estate tax return is filed no later than one year after the due date of the return, including extensions.

Under § 301.9100-1(c), the Commissioner may grant a reasonable extension of time to make a regulatory election, or 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. Section 301.9100-2 provides an automatic extension 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 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.

Section 301.9100-3(b)(1)(v) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Based on the facts submitted and the representations made, we conclude that the standards of §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, the personal representative is granted an extension of time to Date 3, the date the supplemental Form 706 was filed, to make the alternate valuation election under § 2032. A copy of this letter along with a copy of the filed supplemental Form 706 should be forwarded to: Department of the Treasury, Internal Revenue Service, Stop 824G, 7940 Kentucky Drive, Florence, KY 41042-2915.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

The rulings contained in this letter are 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.

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

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

Sincerely,

Associate Chief Counsel
Passthroughs & Special Industries

Melissa C. Liquerman

By:

Melissa C. Liquerman
Senior Counsel, Branch 4
Office of Associate Chief Counsel
Passthroughs & Special Industries

PLR-100853-23

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Enclosure (1)
Copy for § 6110 purposes

cc: