

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PT&E:B04
PLR-113645-25

Date:
January 14, 2026

RE:

LEGEND

Decedent	=
Spouse	=
Trust	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=
Accounting Firm	=
Attorney	=

Dear :

This letter responds to your authorized representative’s letter dated March 7, 2025, and subsequent correspondence, submitted on behalf of Decedent’s estate, requesting an extension of time under § 301.9100-1 and § 301.9100-3 of the Procedure and Administration Regulations to make a qualified terminable interest property (QTIP) election under § 2056(b)(7) of the Internal Revenue Code (Code).

The facts and representations submitted are as follows. On Date 1, Decedent and Spouse established a revocable trust, Trust. Decedent died on Date 2, survived by Spouse. Trust became irrevocable upon Decedent’s death.

Article Two of Trust provides that if Spouse survives Decedent, the Trust is to be divided into three separate trusts: the Survivor’s Trust, the Bypass Trust, and the Marital Trust. The Survivor’s Trust is to be funded with Spouse’s separate property and Spouse’s share of community property. The Bypass Trust is to be funded with assets equal to the largest amount that can pass free of Federal estate tax. The Marital Trust is to be funded with any remaining assets. This ruling pertains to the Marital Trust only.

Article Seven of Trust provides that, during Spouse's lifetime, the trustee of Marital Trust shall pay to Spouse the entire net income from Marital Trust in quarterly or more frequent installments. In addition, Spouse has the right to require the trustee to make trust property productive or to convert trust property to income-producing property.

Article Seven further provides that trustee may make distributions of Marital Trust principal to Spouse, as necessary, for reasonable support.

Article Seven further provides that the purpose of Marital Trust is to qualify for the marital deduction allowable for Federal estate tax purposes and states that the trustee may make an election to treat property passing to Marital Trust as "qualified terminal interest property" as it is defined in § 2056(b)(7).

The executors of Decedent's estate engaged Accounting Firm to prepare Decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, and to make any necessary elections, including a QTIP election.

It is represented that the Form 706 was timely filed on Date 3 on behalf of Decedent's estate. However, Accounting Firm mistakenly failed to include the assets of Marital Trust or any other property as property subject to the QTIP election in Part A of the Schedule M. Thus, no QTIP election was made on Decedent's Form 706 filed on Date 3.

On Date 4, upon further review of Decedent's Form 706, Attorney discovered Marital Trust assets were incorrectly reported, and a valid QTIP election was not made on the Date 3 Form 706.

You have requested an extension of time under §§ 301.9100-1 and 301.9100-3 to make the QTIP election under § 2056(b)(7) to treat Marital Trust as QTIP property.

LAW AND ANALYSIS

Section 2001(a) of the Code imposes a tax on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

Section 2056(a) provides that, for purposes of the tax imposed by § 2001, the value of the taxable estate shall, except as limited by § 2056(b), be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to the surviving spouse, but only to the extent that such interest is included in determining the value of the gross estate. Section 2056(b)(1) provides the general rule that no deduction shall be allowed under § 2056(a) for an interest passing to the surviving spouse if, on the lapse of time, on the occurrence of an event or contingency, or on the failure of an event or contingency to occur, the interest will terminate or fail.

Section 2056(b)(7)(A) provides that, in the case of QTIP, such property shall be treated as passing to the surviving spouse, and for purposes of § 2056(b)(1)(A), no part of such property shall be treated as passing to any person other than the surviving spouse.

Section 2056(b)(7)(B)(i) defines the term “QTIP” as property: (I) which passes from the decedent; (II) in which the surviving spouse has a qualifying income interest for life as defined in § 2056(b)(7)(B)(ii); and (III) to which an election under § 2056(b)(7) applies.

Section 2056(b)(7)(B)(ii) provides that the surviving spouse has a qualifying income interest for life if: (I) the surviving spouse is entitled to all the income from the property payable annually or at more frequent intervals, or has a usufruct interest for life in the property, and (II) no person has a power to appoint any part of the property to any person other than the surviving spouse.

Section 2056(b)(7)(B)(v) provides that an election under § 2056(b)(7) with respect to any property shall be made by the executor on the return of tax imposed by § 2001. Such an election, once made, shall be irrevocable.

Section 20.2056(b)-7(b)(4)(i) of the Estate Tax Regulations generally that the QTIP election is made on the last estate tax return filed by the executor on or before the due date of the return, including extensions, or, if a timely return is not filed, the first estate tax return filed by the executor after the due date.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six 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.

Section 301.9100-3 provides the standards used to determine whether to grant an extension of time to make an election whose date is prescribed by a regulation (and not expressly provided by statute).

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 requirements of § 301.9100-3 have been satisfied. Accordingly, Decedent’s estate is

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Enclosure:

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