

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-130358-17

Date:
March 19, 2018

Legend

Decedent
Individual 1
Individual 2
Attorney
Date 1
Date 2
Date 3
Date 4

Dear _____ :

This letter responds to your personal representative's letter of September 25, 2017, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to elect to make an alternate valuation election under § 2032 of the Internal Revenue Code.

The facts and representations submitted are summarized as follows:

Decedent died on Date 1. Individual 1 and Individual 2 served as co-executors of Decedent's estate. The co-executors hired Attorney to prepare the estate's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. Attorney prepared Form 706, but did not make the alternate valuation date election under § 2032. The co-executors timely filed the Form 706 on Date 2.

On Date 3, after the due date of Form 706, the co-executors filed a supplemental Form 706 making the § 2032 election. On Date 4, the Service issued a letter to the estate that said that since the § 2032 election was not made timely, the assets cannot be valued under § 2032 unless an extension of time is granted under the relief

provisions of §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

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 the election will decrease: (1) the value of the gross estate; and (2) the sum of the federal estate tax and the generation-skipping transfer tax imposed on the estate 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. Under § 2032(d)(2), no election may be made under § 2032 if the return is filed more than 1 year after the time prescribed by law (including extensions) for filing the 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 1 year after the due date of the return (including extensions actually granted).

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. Accordingly, we grant an extension of time of 120 days from the date of this letter to make the alternate valuation election under § 2032. The election should be made by filing a complete and properly prepared Form 706 and a copy of this letter, within 120 days from the date of this letter, to the Cincinnati Service Center, at the following address: Internal Revenue Service, Cincinnati Service Center, Stop 82, Cincinnati, OH 45999.

In accordance with the Power of Attorney on file with this office, we have sent a copy of this letter to your authorized representatives.

Except as expressly provided herein, we neither express nor imply any opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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.

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.

Sincerely,

Associate Chief Counsel
Passthroughs and Special Industries

Lorraine E. Gardner

By:

Lorraine E. Gardner
Senior Counsel, Branch 4
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures

Copy for § 6110 purposes
Copy of this letter

cc: