

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200518009**

Release Date: 5/6/2005

Index Number: 2032.00-00; 9100.00-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B04 – PLR-125313-04

Date: JANUARY 13, 2005

Re:

Legend

Decedent =

Executor =

Date 1 =

Date 2 =

Dear _____ :

This is in response to a letter from your authorized representative dated April 29, 2004, requesting an extension of time under § 301.9100 of the Procedure and Administration Regulations 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 and the Executor of Decedent's estate timely filed Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return on Date 2. The Executor provided Accountant with the value of Decedent's assets as of the alternate valuation date. However, in preparing Decedent's Form 706, Accountant did not check the appropriate box to make the election under § 2032 to value the estate as of the alternate valuation date and did not use the appropriate column for listing the alternate value, but instead listed Decedent's assets as valued as of Decedent's date of death. Subsequent to the filing of Decedent's Form 706, the Accountant discovered the errors. The value of the gross estate and the tax imposed by chapters 11 and 13 decreased as a result of making the election.

The Executor requests an extension of time under § 301.9100 to make the alternate valuation election under § 2032.

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Section 2032(a) provides 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,

(3) Any interest or estate that is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time.

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 and the tax imposed by chapter 13 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 such return is filed more than 1 year after the time prescribed by law (including extensions) for filing such return.

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 301.9100-1(a).

Section 301.9100-2 provides 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

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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 Executor is granted an extension of time of sixty (60) days from the date of this letter for making the alternate valuation election under § 2032. The election should be made on a supplemental Form 706. A copy of this letter should be attached to the supplemental Form 706 and filed with the Cincinnati Service Center at the following address: Internal Revenue Service, Cincinnati Service Center – Stop 82, Cincinnati, OH 45999.

Except as specifically ruled herein, we express or imply no opinion on the federal tax consequences of the transaction under the cited provisions or under any other provisions of the Code.

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.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures

Copy for section 6110 purposes
Copy of this letter

cc: