



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.5.5

JUNE 26, 2020

EFFECTIVE DATE

(06-26-2020)

PURPOSE

- (1) This transmits a revision to IRM 5.5.5, Processing Estate and Gift Tax Extensions.

MATERIAL CHANGES

- (1) IRM 5.5.5.1: Added internal controls.
- (2) IRM 5.5.5.2: Added statement to secure separate Forms 4768.
- (3) IRM 5.5.5.3(1) and (6): Added citation to IRMs with additional guidance.
- (4) IRM 5.5.5.3(2): Added statement that CSED does not extend estate tax lien.
- (5) IRM 5.5.5.4(7): Added citation to IRM 4.25.2.
- (6) IRM 5.5.5.5: Added guidance on evaluating extensions throughout section.
- (7) IRM 5.5.5.6: Added guidance on evaluating extensions for IRC Section 6166 accounts throughout section.
- (8) IRM 5.5.5.7(7): Added link.
- (9) IRM 5.5.5.7(8): Added Form 4768-A and guidance on retention of case files.
- (10) IRM 5.5.5.8: Added guidance on new Form 4768-A.
- (11) IRM 5.5.5.9: Added guidance on new Form 4768-A.
- (12) IRM 5.5.5.9(3): Added guidance on new Form 4768-A and link to IRM 4.25.2.
- (13) IRM 5.5.5.9(4): Added statement on timeliness.
- (14) IRM 5.5.5.9(5): Added statement to keep envelope.
- (15) IRM 5.5.5.9(6): Added statement if postmark illegible use signature date.
- (16) IRM 5.5.5.9(7): Added guidance to document a summary of issues.
- (17) IRM 5.5.5.9(8): Clarified guidance on date stamp and documenting ICS history.
- (18) IRM 5.5.5.9(9): Clarified guidance on file sent to Appeals.
- (19) IRM 5.5.5.9(10): Added notation to Form 3210 and updated link.
- (20) IRM 5.5.5.10(3): Updated link and title to IRM section.
- (21) IRM 5.5.5.11: Removed guidance applicable to 2010 Forms 706, added new paragraph to address case file retention.
- (22) IRM 5.5.5.12: Removed guidance applicable to 2011 Form 706.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 5.5.5 dated October 01, 2012.

AUDIENCE

Advisory & Collection Employees

Ronald Takakjy
Acting Director, Collection Policy

5.5.5

Processing Estate and Gift Tax Extensions

Table of Contents

5.5.5.1 Program Scope and Objectives

5.5.5.1.1 Background

5.5.5.1.2 Authority

5.5.5.1.3 Roles and Responsibilities

5.5.5.1.4 Program Management and Review

5.5.5.1.5 Program Controls

5.5.5.1.6 Related Resources

5.5.5.2 Section Overview Request for Extension of Time to Pay Estate Tax

5.5.5.3 Collection Statute Expiration Date under IRC Section 6503(d)

5.5.5.4 Processing Responsibility of Forms 4768, Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

5.5.5.5 Evaluating Requests for Extensions of Time to Pay

5.5.5.6 Requests for Extension to Pay Tax Deferred under IRC Section 6166

5.5.5.7 Advisory Actions (Form 4768)

5.5.5.8 Approval of Requests for Extension of Time to Pay

5.5.5.9 Denial of Requests for Extension of Time to Pay

5.5.5.10 Extension Requests to Pay Gift Tax

5.5.5.11 Case File Retention and Maintenance

5.5.5.1
(06-26-2020)
Program Scope and Objectives

- (1) **Purpose:** This IRM section provides official policy and procedures to evaluate and process requests for extension of time to pay taxes.
- (2) **Audience:** The guidance in this IRM is specifically intended for advisors, their managers and revenue officers, although other employees in SB/SE and in other functions may find them useful.
- (3) **Policy Owner:** Director, Collection Policy, SBSE.
- (4) **Program Owner:** Collection Policy, SBSE, Enforcement.
- (5) **Primary Stakeholders:** SB/SE Collection and Chief Counsel.
- (6) **Program Goals:** Provide policy and procedural guidance to IRS collection employees processing requests for extension of time to pay related to estate and gift tax accounts.

5.5.5.1.1
(06-26-2020)
Background

- (1) Internal Revenue Manual 5.5.5 provides official procedures to process requests for extension of time to pay taxes. The procedures contained in this section apply to evaluating requests on a case by case basis, approval, denial, appeals of determinations made by Advisory and retention of case files.

5.5.5.1.2
(06-26-2020)
Authority

- (1) Congress has delegated to the IRS the responsibility of administering the tax laws, known as the Internal Revenue Code, found in Title 26 of the United States Code. Congress enacts these tax laws and the IRS enforces them.

5.5.5.1.3
(06-26-2020)
Roles and Responsibilities

- (1) The Director, Collection Policy, is responsible for overseeing policy and procedures related to collection of estate tax accounts.
- (2) Advisory employees authorized to process extension requests are responsible for ensuring procedures are properly followed.
- (3) Managers are responsible for ensuring that processing, evaluation, monitoring and timely actions are taken by employees in accordance with current law, policy and IRM procedures.

5.5.5.1.4
(06-26-2020)
Program Management and Review

- (1) Per IRM 1.4.53, *Advisory and Property Appraisal and Liquidation Specialist Group Manager Operational Aid*, group managers are charged with guaranteeing consistent quality work is produced from each employee. Group managers are responsible for performance evaluations to document how employees are performing their duties and responsibilities to ensure they are working efficiently and effectively to accomplish assigned tasks.
- (2) Operational and program reviews are conducted to ensure that program delivery and case actions are in accordance with administrative and compliance requirements. National quality and consistency reviews are routinely conducted to ensure program consistency and effectiveness in case processing.

5.5.5.1.5
(06-26-2020)
Program Controls

- (1) The Integrated Collection System (ICS) is used to control estate tax accounts and document case work.
- (2) The ENTITY Case Management System can also generate certain unique reports to assist in managing assigned inventory.

5.5.5.1.6
(06-26-2020)

Related Resources

- (1) IRC Section 6161, *Extension of time for paying tax*
- (2) IRC Section 6503, *Suspension of running of period of limitation*
- (3) IRM 5.5.6, *Collection on Accounts with Special Estate Tax Elections*
- (4) IRM 5.5.7, *Collecting Estate and Gift Tax Accounts*
- (5) IRM 5.5.8, *Advisory Responsibilities for Processing Estate Tax Liens*
- (6) IRM 5.5.9, *Administrative and Judicial Actions for Estate Taxes*
- (7) Pub 559, *Survivors, Executors and Administrators*

5.5.5.2
(06-26-2020)

Section Overview

Request for Extension of Time to Pay Estate Tax

- (1) Internal Revenue Code (IRC) Section 6161 provides decedents' estates that file Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*, the option of securing an extension of time to pay when specific circumstances impede their ability to pay the total tax due by the return due date. This section provides background information and procedures for processing of IRC Section 6161 extension requests.
- (2) Taxpayers submit Form 4768, *Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes*, for an extension of time to file or pay estate tax. Advisory and the Estate & Gift tax unit of Cincinnati Compliance Services process Forms 4768 that request extensions of time to file and/or to pay.
- (3) Relevant provisions of IRC Section 6161 and related regulations for extensions of time to pay estate tax are:
 - a. The maximum extension of time to pay that may be granted at one time is 12 months.
 - b. Additional extension requests can be granted for up to 12 months at a time for a maximum of 10 years, for tax determined by the taxpayer on the return. On amounts determined as deficiency, the extended time for payment cannot exceed four years from the date fixed for payment (see IRC Section 6151(c)) of the deficiency, for up to one year at a time.

Note: Different extension periods may apply for different assessments.

 - c. A request for extension of time to pay must be in writing and received no later than the due date of the return, or in the case of a subsequent extension request, the extended payment date.
 - d. Requests must include a statement of reasonable cause or undue hardship.
 - e. No extension shall be granted for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

Note: An extension of time to pay does not extend the time to file.

- f. The granting of an extension of time for payment of the tax will not relieve the estate from liability for the payment of interest during the period of the extension.
- g. The application will be examined, and within 30 days, if possible, will be denied, granted, or tentatively granted subject to certain conditions of which the taxpayer will be notified.

Note: For extensions of time to pay an installment of tax deferred under IRC Section 6166, IRM 5.5.5.6.

- (4) Separate Forms 4768 need to be secured for different assessments such as deficiencies, IRC Section 6166 installment payments and non-deferred taxes. Each assessment needs to be considered individually for ability to pay.

5.5.5.3
(06-26-2020)
**Collection Statute
Expiration Date under
IRC Section 6503(d)**

- (1) Under IRC Section 6503(d), the Collection Statute Expiration Date (CSED) is suspended for the period of any extension of time for payment that is granted. IRM 5.1.19, *Field Collecting Procedures, Collection Statute Expiration*, provides guidance on case actions and transactions codes that can extend or suspend the CSED.
- (2) Advisory employees are responsible for evaluating lien expiration and CSED expiration when processing extension requests in order to allow adequate time for necessary collection actions, appeal rights, seizure or levy before expiration. **Extension of the CSED does not extend the estate tax lien.**
- (3) TC 468 is input on IDRS to identify accounts that may have been granted additional time to pay estate taxes due under IRC Section 6161.
- (4) Generally the CSED is extended for the period of time between the TC 468 date (the extended payment date is reflected on TXMOD as EXT-PAY-DT) and the TC 469 date, which reflects expiration of the extended time to pay.
- (5) CSEDs should always be checked when working estate tax accounts. Different CSEDs may run on different assessments. IDRS does not update the CSED.
- (6) Additional guidance is provided in IRM 5.5.6.7, *Collection Statute Expiration Date* and IRM 5.5.7.6, *Collection Statute Expiration (CSED)*.

5.5.5.4
(06-26-2020)
**Processing
Responsibility of Forms
4768, Application for
Extension of Time to
File a Return and/or Pay
U.S. Estate (and
Generation-Skipping
Transfer) Taxes.**

- (1) All requests for extension to file and pay involving unfiled tax returns in which the estate anticipates a cash shortage to pay taxes that will become due of \$25,000 or more will be sent to Advisory for approval consideration.
- (2) Extension requests on unfiled returns where the estate sends payment of the estimated liability with the request (payment and estimated tax are equal) will **not** be sent to Advisory; requests where the estimated tax is not paid will be sent to Advisory if the estimated liability is \$25,000 or more
- (3) All requests for extensions to pay on accounts in which the tax return has been filed and reflect a balance due over \$50,000 will be sent to Advisory.
- (4) All extensions to pay where it is the third request, regardless of the dollar amount, will be sent to Advisory.
- (5) All requests for extension of time to pay annual installments that are deferred under IRC Section 6166 will be sent to Advisory.
- (6) All other requests that do not meet the above criteria will be processed by the Estate & Gift Tax unit of Cincinnati Compliance Services.
- (7) Campus procedures for processing extensions to pay are in IRM 4.25.2.8, *Collection Activities*.

5.5.5.5
(06-26-2020)

**Evaluating Requests for
Extensions of Time to
Pay**

- (1) Employees must determine on a case by case basis whether to allow a request for an extension of time to pay, and if so, the length of time for such extension.
- (2) Employees will be expected to evaluate reasonable cause statements on extension requests in which the estate has requested the automatic six month extension to file and a non-automatic twelve month extension to pay tax due upon filing.
- (3) If the reasonable cause statement sent by the estate provides details (see instructions to Form 4768) explaining why it is unable to determine the tax liability or the liquidity of assets, it may be reasonable to limit approval of the extension of time to pay to six months. This corresponds with the extended due date of the estate tax return; making it reasonable to expect that the executor will know the tax liability and liquidity of assets by the end of that six month period.
- (4) If the executor then needed additional time to pay the estate tax, another request could be made on Form 4768.
- (5) If the estate indicates no tax will be due it **may be** reasonable to deny a request for extension of time to pay when the taxpayer believes in good faith that no liability is owed. Although an estate's request for an extension of time to pay may state that no liability will be due with the return, consideration will be given to the reasonable cause explanation in evaluating these requests for an extension to pay.
- (6) Extension to pay requests that lack a reasonable cause statement will be allowed an additional fifteen calendar days to perfect the reasonable cause statement. The employee reviewing the request will send a letter to the executor requesting additional information and will document the extended time allowed in the case history. If a timely response is not provided from the estate the request will be denied.
- (7) An extension of time to pay may be granted for a reasonable period of time if an examination of all facts and circumstances discloses that such request is based upon reasonable cause. The following examples illustrate cases involving reasonable cause for granting an extension of time (also see Treas. Reg. 20.6161-1(a)(2) for undue hardship criteria):
 - a. The estate contains enough liquid assets to pay the tax but the assets are located in several places and the executor cannot take control of them in time to pay the tax by the due date.
 - b. Much of the estate consists of assets that provide for payment in the future (e.g., annuities, copyright royalties, contingent fees, or accounts receivable). Currently they do not produce enough cash to fully pay by the due date. Borrowing against these assets has proved not to be possible, and sale of these assets at a discount would greatly decrease the value of the estate.
 - c. The estate includes a claim to substantial assets which cannot be collected without litigation. The value of the gross estate is undetermined so tax cannot be paid (or even computed) when the tax is due.
 - d. The estate does not have enough money (without borrowing at a rate of interest substantially higher than that generally available) to pay all the tax and other claims against the estate while providing funds for the de-

cedent's dependents during the period of administration. The executor has made reasonable attempts to convert assets into cash.

- (8) In addition to establishing reasonable cause, these cases require an analysis of the progress of efforts being made to borrow or liquidate assets or to otherwise pay the amounts to be extended. Document the case file ICS history of the additional information required and reviewed in this analysis such as:
 - a. Current balance sheets listing all assets, disbursements, liabilities (such as an inventory and appraisal) and earnings for the estate (such as Form 1041) . This documentation should be compared to any submitted for a prior extension period, to determine what has been liquidated during the extension period. As years pass economic or disaster circumstances may impact values, do not rely on date of death values reported on the estate tax return when evaluating requests for time to pay. Current real estate should be listed with the value and location identified (city, county, and state).
 - b. An accounting and documentation of the actions taken during the past extension period to resolve the indebtedness. Examples include review of documentation involving marketing of property (property listings, search of internet real estate sites), court documents reflecting current status of suits/litigation of estate assets, or applications when seeking loans. If the estate is not taking actions to pay the tax debt it may not be in the government's best interest to continue to approve requests to extend time for payment.
 - c. Information on the executor's proposal to make partial payments during the extension being requested. After reviewing assets and financial information make a determination how much the estate can pay with the application for extension of time to pay to reduce the tax liability.
 - d. Consideration should be made as to whether the estate has complied with the conditions set for granting prior extensions.
 - e. Evaluation of what assets remain under the protection of the IRC Section 6324 lien; determine if assets have been distributed or discharged.
 - f. An analysis should be made to determine if there is sufficient value or equity in the remaining assets relative to the amount of tax remaining.
- (9) This documentation should be compared to those submitted for a prior extension period to determine if assets have been liquidated or dissipated during the extension period. If assets are being liquidated or dissipated investigation and action are critical to determine if the Government:
 - a. should have been paid or received proceeds from the sale of the asset,
 - b. issued a discharge of the property from the estate tax lien,
 - c. is adequately protected to secure payment from remaining estate assets,
 - d. has time remaining on the estate tax lien to initiate collection action or prepare a suit to foreclose the estate tax lien,
 - e. has a lien interest in a foreclosure proceeding by another party on estate assets and if it is in the Government's best interest to have a NFTL filed. If so, coordinate needed actions with Field Collection.
- (10) Requests for an extension to pay may be necessary because the estate representative or executor needs additional time to liquidate properties that cannot be marketed within the nine month period following the death of the taxpayer. Provided the advisors verify that all steps necessary to sell property to pay the tax are being taken in an expeditious manner, and that all liquid assets not

needed for the payment of anticipated administrative expenses are paid over, extensions to pay may be granted only for the amount of the cash shortage.

- (11) If litigation is pending:
- a. when Advisory is aware of litigation involving Counsel, AUSA or DOJ and the estate, Advisory must coordinate with the attorney working the case and provide information concerning current status of estate (balance due, liens in place or extensions to pay) to ensure protection of the Government's lien interest and that correct tax liability and payoff is provided.
 - b. determine if the estate tax lien is ahead of parties litigating the asset. For example, in some cases heirs argue over rights to estate property but the estate tax lien has priority, the Government can exercise its lien rights to receive payment or the asset for payment before the heir, in such cases extensions should not be granted.
 - c. if the estate tax lien has priority, notify the estate of the Government's lien position and that an extension of time to pay may not be granted.
 - d. if it is necessary to assert the Government's lien position, request assistance by an ATAT RO.
 - e. When estate assets are being liquidated it may not be prudent to continue to approve extensions unless after financial analysis it is determined the Government is adequately protected and/or receiving funds to pay down the tax debt.
- (12) Under IRC Section 2011(c), for state death taxes to be deductible as an expense on Form 706, they must be paid within four years from the date the Form 706 is filed, or until the expiration of any extension to pay under IRC Sections 6161 or 6166, whichever date is later. If the estate tax liability has been in extension to pay status (status 14) for more than four years from the filing of Form 706, the estate will be unable to claim as a deduction any subsequent state death tax payments if further extension to pay requests are denied.

5.5.5.6
(06-26-2020)
**Requests for Extension
to Pay Tax Deferred
under IRC Section 6166**

- (1) All requests for an extension to pay an annual installment of tax deferred under IRC Section 6166 will meet the guidelines for referral to Advisory. The same reasonable cause criteria apply to these requests.
- (2) A request relating to the annual installment will not be considered unless the extension is applied for on or before the date fixed for payment of the tax or installment.
- (3) If the estate is unable to pay the annual installment payment or non-deferred tax this is an indicator/factor that the estate may be financially unstable. At this time the advisor will conduct an evaluation of the current assets, review time remaining on the IRC Section 6324(a) lien (or any other lien that may be in effect such as the IRC Section 6324A lien) and determine if the Government is adequately secured for the remaining tax due during the duration of the deferral period. When the estate has an inability to pay one annual payment it is critical to conduct analysis to prevent further pyramiding of the installments and to determine if the estate has enough income to pay the current installment plus the next annual installment that will be due a year later. Refer to acceleration procedures in IRM 5.5.6 , *Collection on Accounts with Special Estate Tax Elections*, if it is determined necessary to proceed with collection of the deferred portion of tax.

- (4) Review documentation from the Campus reflecting amount of the past due installments, such as 6335 letters. In certain circumstances, it is not in the Government's best interest to allow a debt to increase or delay collection. Therefore, requests for more time to pay may be denied when the estate shows:
 - a. more than one past due installment,
 - b. partial payments on past due installments,
 - c. inability to pay prior past due installments and the current installment,
 - d. no proposal or shows no ability to make the current installment,
 - e. the closely held business is not financially stable or is spending funds on things other than installment payments (perform internet research on the business to look for indications of expansion, pending sale of assets or stock, bankruptcy, closing or instability).
- (5) Advisory management must review case files and document reason and approval of letting the 10-year estate tax lien under IRC Section 6324(a) expire without obtaining a replacement lien in cases with deferral or extension of time to pay estate tax under IRC Sections 6166 or 6161.
- (6) Revenue officers may continue collection actions on the non-deferred portion of estate tax while the deferred portion is being accelerated.

5.5.5.7
(06-26-2020)
Advisory Actions (Form 4768)

- (1) Advisory will analyze extension requests to ensure that the Government's interests are protected before an additional extension of time is granted.
- (2) Treasury Regulation (Treas. Reg.) 1.6161-1(c) provides that applications will be examined, and **within 30 days**, if possible, will be denied, granted, or tentatively granted subject to certain conditions of which the taxpayer will be notified.
- (3) Create an ICS Non-Field Other Investigation (NFOI) with Action Requested type "199-Ext Time to Pay (4768)" upon receipt of the extension request.
- (4) Contact the executor within 30 calendar days of the date of the extension request to:
 - a. Advise them that you are reviewing the request,
 - b. Gather information to support your determination, and
 - c. Estimate the date of completion.
- (5) Generate an ICS Other Investigation (OI) to a revenue officer for cases that require field contact, valuation of property, or administrative remedies to assist with a determination on the extension request.
- (6) If, in the judgment of the Advisor evaluating the extension request, granting an extension to pay may put the interest of the government at risk, under IRC Section 6165 granting of the extension can be conditioned upon the estate posting a bond.
- (7) The filing of a Notice of Federal Tax Lien should also be considered if there are assets attached by the IRC Section 6321 lien, and if all of the statutory requirements for creation of the assessment lien have been met. See IRM 5.5.7.12 , *Notice of Tax Due* , for further information on lien filing consideration.

Letters such as 2568-C or CP 504 meet demand for tax due requirements and documentation of letters sent can be found in the TXMOD history of the IDRS account.

- (8) Maintain a file of all approved and rejected Forms 4768 and Forms 4768-A. The retention period for estate tax case files is **two years after the account is closed (Status 12) not two years after Advisory closes the case.** These case files contain key documents that are used as evidence in litigation cases and to substantiate CSED calculations. Refer to IRM 5.5.8.19, *Retention of Advisory Estate Tax Lien Files*, for additional details on case file retention.
- (9) Counsel may be consulted on cases with:
 - a. Requests for an extension of payment of interest on IRC Section 6166 cases.
 - b. Provisions of 31 USC § 3713, fiduciary or transferee liability.
 - c. Administrative remedies based on the IRC Section 6321 lien (e.g., filing of a Notice of Federal Tax Lien, Notice of Levy, and/or seizure of property or property rights).

5.5.5.8
(06-26-2020)
**Approval of Requests
for Extension of Time to
Pay**

- (1) If all issues are resolved in favor of an extension, complete part Form 4768-A, *Reply to Request for Extension of Time to Pay U.S. Estate Taxes*, to notify the executor that the request has been approved. Complete the "Explanation of the decision" section to provide detailed information of any conditions/actions that are required. Approval dates must **not** be beyond the date of death as this will put the account into a manual billing process instead of systemic processing. For example if the date of death is 04-19-2020 and the extension is granted for one year, the extended payment date should be no longer than 04-19-2021 to prevent the need for manual payoff calculations.
- (2) Document the ICS case history with the basis for approval and forward to the Group Manager for review and approval.
- (3) Mail the approved original Form 4768-A to the taxpayer/executor and a copy of the Form 4768-A to the authorized estate representative with Letter 937 , *Transmittal for Power of Attorney*.
- (4) Mail or fax a copy of the Form 4768-A , include Form 3210, to the Cincinnati Campus Estate & Gift tax unit for input of the TC 468 on IDRS. Retain a copy with the Advisory case file. Campus E&G unit will monitor the extension until expiration of the period granted, and the OI on ICS should be closed.
- (5) Document the ICS history with a summary history entry containing a statement of findings and any specified actions that were a condition of the decision to approve the extension request.

5.5.5.9
(06-26-2020)
**Denial of Requests for
Extension of Time to
Pay**

- (1) If the request is denied, complete Form 4768-A, *Reply to Request for Extension of Time to Pay U.S. Estate Taxes*, giving the reason for denial in the section titled "Explanation of the decision".
- (2) Forward to the Group Manager for review and approval, mail the signed Form 4768-A to the executor of the estate and a copy of the Form 4768-A with Letter 937 to the authorized estate representative. Retain a copy of the case

file and keep the OI open, with a scheduled follow up for at least 25 calendar days after forwarding to allow time for the executor to appeal (10 days) and mailing time (15 days).

- (3) If the executor does **not** appeal the denied extension, mail or fax a copy of the Form 4768, include Form 3210, to the Cincinnati Campus Estate & Gift tax unit for input of the TC 469. (For related information on transaction codes 468, 469 and closing codes see 4.25.2.8.2.4(8), *IRC 6161 Extension of Time to Pay and Extensions to File*. Close the OI on ICS.
- (4) A written appeal may be made to the advisor within ten calendar days after the time the denial is mailed to the executor. To be considered timely the appeal must be filed **within the 10 day period** commencing the day after the date on the Form 4768-A.
- (5) The appeal is considered filed on the date it is postmarked. If the due date falls on a Saturday, Sunday or legal holiday, it will be considered timely if postmarked by the next business day. Keep the envelope in which the appeal was mailed attached to the written appeal.
- (6) If the postmark date is illegible or the envelope is missing and there is no IRS received date, use the signature date.
- (7) The ICS case history should be documented with a summary of the issues limited to neutral statements without any discussion regarding the strengths or weakness of the written appeal. A narrative statement detailing the basis for the original extension denial is not required when transmitting the request to Appeals. The case actions documented in the ICS history should be sufficient for Appeals to review the issue regarding the determination to deny the extension request. The Group Manager must ensure that no prohibited ex parte communications are included before approving the transmittal of the case to Appeals. For additional information on case transmittal to Appeals or ex parte communication, see IRM 5.1.9, *Collection Appeal Rights*.
- (8) If a written appeal is received in Advisory, the advisor will date stamp the protest with the received date, verify the protest was filed timely and document the ICS case history.
- (9) The advisor will forward a file containing the following information to Appeals:
 - Copy of Executor or power of attorney information unless it is present on IDRS via command code CFINK,
 - Copy of any forms 4768 (including previously granted extensions),
 - Copy of Form 4768-A and the envelope it was mailed in
 - Copy of all correspondence between the Service and the estate representative relating to the extension request,
 - Written appeal from the estate representative, and
 - Copy of the ICS history (E&G Appeals does not have the capability to access ICS).
- (10) This file will be forwarded on a Form 3210 notated with "Estate Tax Appeal to Denied Extension of Time to Pay", to the Office of Appeals for the state of the decedent's last domicile using the Case Routing List on the Appeals website, <http://appeals.web.irs.gov/APS/caserouting.htm>, with the understanding the case may be transferred to another Appeals office based on Appeals inventory needs.

- (11) Notify the Cincinnati Campus Estate & Gift tax unit that the estate has requested an appeal so that the account remains in status 14 and payment due notices are not sent during the appeals process.
- (12) The Appeals Office will send the case file and the Case Memorandum to the originating Advisor and a copy of the Case Memorandum to Campus once the decision is final, so that E&G Campus can proceed with billing. If no response is received Advisory or Campus will follow up with Appeals in 90 days. Contact can be made with the Appeals' Account Resolution Specialist to locate a case or update status (see website for contact information) .

5.5.5.10
(06-26-2020)

**Extension Requests to
Pay Gift Tax**

- (1) Form 1127, *Application for Extension of Time for Payment of Tax Due to Undue Hardship*, is used to request extensions of time to pay the amount due on a gift tax return or a deficiency on Form 709, *United States Gift Tax Return*.
- (2) Requests for an extension of time to pay gift tax must be filed with the Estate and Gift Tax (E&G) unit in the Cincinnati Campus.
- (3) The E&G unit will determine whether the application is processable in accordance with the guidelines provided in IRM 5.1.12.26, *Form 1127, Application for Extension of Time for Payment of Tax Due to Undue Hardship*. Applications that are determined nonprocessable may be signed by the E&G unit manager and returned to the taxpayer along with a cover letter explaining why the application is nonprocessable. If it is determined that the application is processable, the following steps will be taken within seven calendar days of receipt:
 - Establish an entity under MFT 51, document the TXMOD history with the date the application was received and the date it was forwarded for consideration.
 - Forward the application and supporting documents to the Advisory Estate Tax Group.
- (4) Create an ICS Non-Field Other Investigation (NFOI) with Action Requested type "187 - Ext Time to Pay (1127)" upon receipt of the extension request.
- (5) The Advisory Estate Tax Group will determine whether the application should be approved or denied and will be responsible for sending the approval or denial letter to the taxpayer. Advisory will document the ICS history with the actions taken, and retain a copy of the Form 1127 and supporting documents in conformance with existing document retention guidelines.
- (6) Treasury Regulation (Treas. Reg.) 1.6161-1(c) provides that applications will be examined, and within 30 days, if possible, will be denied, granted, or tentatively granted subject to certain conditions of which the taxpayer will be notified. The revised Form 1127 includes check boxes for indicating whether the application is being approved, denied, or returned. The reason(s) for this determination should be included on the form and more specifically explained in a cover letter sent to the taxpayer.
- (7) If the application is denied, the Advisory Estate Tax Group will send to the E&G unit a copy of the denied application and a copy of the cover letter sent to the taxpayer; upon receipt, the E&G unit will document the TXMOD history that the extension request was denied. Advisory will follow procedures in IRM 5.5.5.8 for protests on denied extension requests.

- (8) If the application is approved, the Advisory Estate Tax Group will send to the E&G unit a copy of the approved application and a copy of the cover letter sent to the taxpayer, along with Forms 4844, requesting the E&G unit to input the TC 470, no closing code, for the appropriate number of cycles, and the TC 270 for \$0.00; the E&G unit will document the TXMOD history that the extension request was approved and the new extension date.
- (9) Note that approval of the extension does not relieve the taxpayer from liability for interest that accrues during the period of the extension, but does provide relief from the failure to pay (FTP) tax penalty to the extended due date, even if the taxpayer fails to submit full payment by that date.
- (10) The E&G unit will monitor the account, reverse the TC 470 when necessary, and abate the failure to pay penalty if assessed for the period the extension was granted.
- (11) The E&G unit will associate a copy of the application and the cover letter sent to the taxpayer with the related Form 709 tax return.
- (12) Additional guidance concerning extension requests, sample forms and letters regarding Form 1127 are provided in IRM 5.1.12.26, *Field Collecting Procedures - Cases Requiring Special Handling*.

5.5.5.11
(06-26-2020)
**Case File Retention and
Maintenance**

- (1) **All case files related to a taxpayer must be retained together**, including requests for extension of time to pay, discharges, special election lien documents and correspondence from taxpayers or the Campus (such as 6335 letters, billings or protests). All information the Service has available needs to be considered when making a determination on requests for extensions of time to pay or lien determinations.
- (2) Different time codes may be utilized for different types of actions performed.
- (3) **All case files** should be identified and provided upon request by Field Collection or Counsel.
- (4) The retention period for estate tax case files is **two years after the account is closed (Status 12) not two years after Advisory closes the case**. These case files contain key documents that are used as evidence in litigation cases. See additional guidance in IRM 5.5.8.19, *Retention of Advisory Estate Tax Lien Files*.

