

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:

Telephone Number:

Refer Reply To:
CC:PSI:B04
PLR-121283-17

Date:
December 11, 2017

Legend

Decedent
Date 1
Date 2
Son
Daughter
Accountant

Dear :

This letter responds to your personal representative's letter of July 3, 2017, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to elect to specially value qualified real property under § 2032A of the Internal Revenue Code.

The facts and representations submitted are summarized as follows:

Decedent died on Date 1. Decedent died with a revocable trust. Son and Daughter were co-trustees of the revocable trust and pursuant to § 2203 of the Internal Revenue Code served as co-executors of Decedent's estate. Decedent's estate included farmland. Son and Daughter retained Accountant to prepare and timely file Decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. Accountant did not advise Son and Daughter to make an election to specially value the farmland under § 2032A. On Date 2, Son and Daughter timely filed Form 706, however, they failed to make the § 2032A election.

After filing Decedent's Form 706, Son met with an attorney to discuss estate planning. The attorney discovered that the § 2032A election was never made on the Form 706. The estate requests an extension of time to make the § 2032A election.

LAW AND ANALYSIS

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

Section 2032A(a)(1) provides, generally, that if the decedent was (at the time of his death) a citizen or resident of the United States, and the executor elects the application of § 2032A and files the agreement referred to in § 2032A(d)(2), then, for purposes of chapter 11, the value of qualified real property shall be its value for the use under which it qualifies, under § 2032A(b), as qualified real property.

Section 2032A(d)(1) provides that the election under § 2032A shall be made on the return of tax imposed by § 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

Section 301.9100-1(c) provides that the Commissioner may 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 Code, except subtitles E, G, H, and I.

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

A request for relief under § 301.9100-3 will be granted when the taxpayer provides 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 upon the facts submitted and the representations made, we conclude that the requirements 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 elect to specially value the farmland under § 2032A. 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. Specifically, we express or imply no opinion on whether the estate qualifies for special use valuation under § 2032A.

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.

If it is later determined that, based on the value of the gross estate and taking into account any taxable gifts, Decedent's estate is required to file an estate tax return pursuant to § 6018(a), the Commissioner is without authority under § 301.9100-3 to grant to Decedent's estate an extension of time to elect portability and the grant of the extension referred to in this letter is deemed null and void.

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