

Internal Revenue Service

Number: **202547012**

Release Date: 11/21/2025

Index Number: 2056.07-00, 9100.00-00

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:PT&E:B04

PLR-110895-25

Date:

August 21, 2025

Re:

LEGEND

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

Dear :

This letter responds to a letter dated May 13, 2025, and subsequent correspondence, submitted on behalf of Decedent's estate (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.

Under Article II, Section E of Trust, if Spouse survives Decedent, the Trust is to be divided into two separate trusts: the Bypass Trust and the Marital Trust. This ruling pertains to the Marital Trust only.

Article IV, Section B of Trust provides that, during Spouse's lifetime, the trustee of Marital Trust is to distribute the net income of Marital Trust to Spouse in convenient

installments but not less often than annually. Trustee may make distributions of Marital Trust principal as necessary, when added to the funds reasonably available to Spouse from other sources known to the trustee (excluding the Bypass Trust) to provide for Spouse's health, support, maintenance and education. During Spouse's lifetime, no portion of Marital Trust shall be distributed to any person other than Spouse.

Article IV, Section B provides that Spouse shall have the power to require that any unproductive property in the Marital Trust be converted into productive property within a reasonable time.

Article VIII, Section H of Trust provides, in part, that the trustee of Marital Trust shall do all things necessary in order to assist Decedent's executor in making the election to have the property passing to the Marital Trust qualify as "qualified terminable interest property" pursuant to the provisions of § 2056(b)(7).

After Decedent's death, Spouse, in her capacity as executor of Decedent's Estate, retained Attorney and Law Firm to prepare Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return as well as 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, Attorney mistakenly listed the assets of Marital Trust in the "All other property" section of Schedule M instead of the "QTIP property" section in Part A of Schedule M. Thus, no QTIP election was made with respect to the property passing to Marital Trust.

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

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)(7)(A) provides that, in the case of qualified terminable interest property, for purposes of § 2056(a), 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 “qualified terminable interest property” 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 provides that, in general, the election referred to in § 2056(b)(7)(B)(i)(III) and (v) is made on the return of tax imposed by § 2001 (or § 2101). For purposes of this paragraph, the term “return of tax imposed by § 2001” means 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. Therefore, the personal representative of Decedent's Estate is granted an extension of time of 120 days from the date of this letter to make a QTIP election with respect to the Marital Trust.

The election should be made on a supplemental Form 706 filed with the Internal Revenue Service Center at the following address: Department of the Treasury, Internal Revenue Service Center, Attn: E&G, Stop 824G, 7940 Kentucky Drive, Florence, KY 41042-2915. A copy of this letter should be attached to the supplemental Form 706.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

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.

Sincerely,

Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Melissa C. Liquerman

By: _____
Melissa C. Liquerman
Senior Counsel, Branch 4
Office of Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure:

Copy for § 6110 purposes

PLR-110895-25

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cc:

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