

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B04
PLR-113323-05
Date: JUNE 30, 2005

Legend:

Decedent -
Executor -
Date 1 -
Date 2 -

Dear :

This is in response to your letter, dated February 14, 2005, requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an election under § 2057(b)(1)(B) of the Internal Revenue Code.

The facts and representations submitted are summarized as follows: Decedent died on Date 1. Date 1 is prior to December 31, 2003. Decedent's gross estate consisted primarily of timber and farm land, commercial real estate, and oil and gas interests. Decedent's Estate timely filed the Estate's United States Estate (and Generation-Skipping Transfer) Tax Return, Form 706. The timber and farm land, commercial real estate, and oil and gas leases were included on Decedent's estate tax return, but the value of those interests did not exceed 50 percent of the value of the gross estate as reported on that return. Consequently, Decedent's estate did not make the election on the return to treat any property interests as qualified family-owned business interests as described in § 2057. The Decedent's estate tax return was subsequently examined by the Internal Revenue Service resulting in a revaluation of the property interests, including the family-owned business interests, included in Decedent's estate. You represent that, as a result of the revaluation as agreed to by the Decedent's estate and the Internal Revenue Service, the value of the qualified family-owned business interests included in Decedent's estate exceeds 50 percent of the value of Decedent's adjusted gross estate.

On Date 2, Decedent's estate filed a supplemental Form 706 in which Decedent elected under § 2057 to deduct the value of the family-owned business interests from the value of the gross estate. Executor requests an extension of time under §§ 301.9100-1 and 301.9100-3 to make an election under § 2057(b)(1)(B) to deduct the adjusted value of Decedent's qualified family-owned business interests.

Section 2057(a)(1) provides that for purposes of the estate tax imposed by § 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent. Section 2057(a)(2) provides that the deduction allowed by § 2057 shall not exceed \$675,000.

Section 2057(b)(1) provides, in part, that section 2057 shall apply to an estate if the executor elects the application of this section and files the agreement referred to in § 2057(h).

Section 2057(i)(3)(H) provides that, for purposes of making the election and filing the agreement under § 2057(b)(1)(B), rules similar to the rules under §§ 2032A(d)(1) and (3) (regarding the election of special use valuation of farm and other qualified real property) shall apply.

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.

Section 301.9100-1 through 301.9100-3 provides the standards used 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).

Section 301.9100-3 sets forth the standards that the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner should grant relief when the taxpayer provides evidence proving 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.

Based on the facts submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Therefore, an extension of time to make the election under § 2057 is granted until Date 2, the date on which the supplemental Form 706 was filed.

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. Specifically, we express or imply no opinion on whether the estate qualifies for the deduction under § 2057.

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.

In accordance with the 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