

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

In Re:

Refer Reply To:

CC:PSI:B09 – PLR-169506-03

Date:

February 18, 2004

Legend:

Decedent =

Date 1 =

X =

Corporation =

Y =

State =

Accountant =

Date 2 =

Dear :

This is in response to your letter dated November 25, 2003, submitted on behalf of Decedent's estate, requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an election under § 2032A of the Internal Revenue Code.

The facts submitted and representations made are summarized as follows: Decedent died on Date 1. Decedent's gross estate included X shares of stock in Corporation. Corporation is in the business of farming and its primary asset consists of Y acres of farmland located in State.

The executor of Decedent's estate relied on Accountant to prepare and file Decedent's Form 706 United States Estate (and Generation-Skipping Transfer) Tax Return. Accountant, however, was not familiar with the benefits provided by § 2032A, and the executor of Decedent's estate was unaware of the existence or applicability of § 2032A. Decedent's estate tax return was filed on Date 2, and no election or protective election to specially value the farmland under § 2032A was made on the return.

Decedent's estate has requested an extension of time under §§ 301.9100-1 and 301.9100-3 to make an election under § 2032A with respect to the farmland held indirectly by Decedent through Corporation.

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 this section 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.

Under § 301.9100-1(c), the Commissioner may grant a reasonable extension of time to make a regulatory election, or a 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.

Section 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). 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 the grant of relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1)(iii) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election.

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 taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government. Consequently, an extension of time is granted until

60 days from the date of this letter for making an election under § 2032A to specially value qualified real property. However, the burden is on the estate to establish to the Service's satisfaction that all of the requirements of § 2032A are met.

The ruling contained in this letter is 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 ruling request, it is subject to verification on examination.

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 who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

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