

Internal Revenue Service

Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:04 – PLR-161350-04
Date: MARCH 14, 2005

Re:

Legend

Decedent	=
Estate	=
Executor	=
Date 1	=
Date 2	=
County	=

Dear :

This is in response to your letter, dated October 21, 2004, requesting an extension of time under sections 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make elections under sections 2032A and 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 8 tracts of timberland located in County. Executor of Decedent's Estate, a licensed certified public accountant, prepared and timely filed the estate's United States Estate (and Generation-Skipping Transfer) Tax Return, Form 706. Executor was not aware of the availability of the sections 2032A and 2057 elections when he filed the return and, consequently, did not make the elections on the return.

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On Date 2, Executor filed a supplemental Form 706 making an election under section 2032A for the special valuation of the family-owned timberland and elected section 2057 treatment for the family-owned timberland.

Executor requests an extension of time under sections 301.9100-1 and 301.9100-3 to make an election under section 2032A for a special valuation of the Decedent's real property and to make an election under section 2057(b)(1)(B) to deduct the adjusted value of Decedent's qualified family-owned business interests.

Section 2032A(a) provides 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 section 2032A and files the agreement under section 2032A(d)(2), then, for estate tax purposes, the value of qualified real property shall be its value for the use under which it qualifies, under section 2032A(b), as qualified real property.

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

Section 2057(a)(1) provides that for purposes of the tax imposed by section 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 section 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 section 2057(h).

Section 2057(i)(3)(H) provides that, for purposes of making the election and filing the agreement under section 2057(b)(1)(B), rules similar to the rules under sections 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 sections 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).

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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 section 301.9100-3 have been satisfied. Therefore, an extension of time to make the election under sections 2032A and 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 special valuation under section 2032A or the deduction under section 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 & Special Industries)

Enclosures

Copy for section 6110 purposes
Copy of this letter

cc: