

Internal Revenue Service

Department of the Treasury

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P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:4 - PLR-119774-00
Date: February 21, 2001

Re:

Legend:

Decedent	-
Date 1	-
Corporation	-
s shares	-
t percentage	-
x dollars	-
y dollars	-

Dear :

This is in response to your letter of October 9, 2000, requesting an extension of time under § 301.9100-1 of the Procedure and Administration Regulations to make a qualified family-owned business interests election under § 2057(b)(1)(B) of the Internal Revenue Code.

Decedent died on Date 1. Decedent's gross estate consisted primarily of stocks, bonds, and real estate. At the time of death, Decedent owned s shares of Corporation stock, a closely-held corporation, which represented t percentage interest in Corporation. During the administration of Decedent's estate, the estate hired an independent appraiser to value the assets of Corporation. Another firm specializing in business valuations was hired to determine the value of Decedent's interest in Corporation. It was determined that the value of Decedent's stock in Corporation at Decedent's death was x dollars. This value was reported on a timely filed federal estate tax return.

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Decedent's estate represents that, prior to filing the federal estate tax return, it determined that the estate did not qualify for the deduction for family-owned business interest under § 2057 because, based on the value of the Corporation stock, as reported, the estate did not satisfy the threshold requirements in § 2057(b)(1)(C). Accordingly, an election under § 2057(b)(1)(B) was not made.

Upon examination by the Service, the value of Corporation stock included in Decedent's gross estate was determined to be y dollars.

Decedent's estate requests an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make the election under § 2057(b)(1)(B) to deduct the adjusted value of the qualified family-owned business interests under § 2057(a).

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

Section 2057(a) allows a deduction (limited to \$675,000) from the value of the decedent's gross estate for the adjusted value of the qualified family-owned business interests of the decedent.

Section 2057(b)(1)(B) provides that in order to qualify for the deduction, the executor must elect application of the section and file the written agreement described in § 2057(h) signed by each person who has an interest in any property designated in the agreement consenting to the recapture provisions described in § 2057(f). Section 2057(b)(1)(C) provides that in order to qualify for the deduction the adjusted value of the qualified family-owned business interest owned by the decedent must exceed 50 percent of the decedent's adjusted gross estate.

Section 2057(e)(1) generally defines the term "qualified family-owned business interest" to mean an interest as a proprietor in a trade or business carried on as a proprietorship, or an interest in an entity carrying on a trade or business, if at least 50 percent of such entity is owned (directly or indirectly) by a decedent and members of the decedent's family (or either 70 percent of the entity is owned by members of two families or 90 percent of the entity is owned by 3 families, and 30 percent of the entity is owned by the decedent and members of the decedent's family).

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) will be applied.

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Section 2032A(d)(1) provides that the election under § 2032A shall be made on the return of tax imposed by § 2001 in a manner consistent with the regulations prescribed by the Secretary. The election, once made, is irrevocable. Section 2032A(d)(3) provides that the Secretary may prescribe procedures under which the executor will have a reasonable time (not exceeding 90 days) to provide necessary information or signatures after receiving notification of a failure to provide the required information or signatures.

Under § 301.9100-1(c) of the Procedure and Administration Regulations, 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, if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer has acted reasonably and in good faith, and granting relief will not prejudice the interests of the government.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. § 301.9100-1(a).

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish that the taxpayer acted reasonably and in good faith, and granting relief will not prejudice the interests of the government. § 301.9100-3(a).

In this case, based solely on the information submitted and the representations made, we conclude that the standards of §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, an extension of time to make an election under § 2057(b)(1)(B) is granted until 60 days after the date of this letter.

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.

Except as we have specifically ruled 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.

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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.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

A copy of this letter should be forwarded to the Internal Revenue Service office where the Decedent's estate tax return was filed. A copy is enclosed for that purpose.

Sincerely yours,

Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special
Industries)

Enclosures

Copy for section 6110 purposes

Copy of letter