

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

**Person to Contact:**

Telephone Number:

Refer Reply To:  
CC:PSI:9 / PLR-122441-00  
Date:  
April 19, 2001

Legend

- Decedent
- Spouse
- Trust
- Country
- Date 1
- Date 2
- Date 3
- Date 4
- Date 5

Dear :

We received your letter dated October 16, 2000 requesting an extension of time under § 301.9100-1 of the Procedure and Administration Regulations to file the notice required under § 20.2056A-10(a)(2) of the Estate Tax Regulations that the beneficiary of a qualified domestic trust has become a United States citizen. This letter responds to your request.

Decedent died on Date 1 survived by Spouse. At the time of Decedent's death, Spouse was residing in Country and was not a United States citizen. On Date 2, Trust, which satisfied all the requirements for a qualified domestic trust under § 2056A(a) of the Internal Revenue Code, was established. On Date 3, Spouse immigrated to the United States. On Date 4, Spouse became a United States citizen.

Spouse, an immigrant from Country, was not aware of any requirement to notify the U.S. trustee of Trust regarding Spouse's U.S. citizenship. The U.S. trustee of Trust learned indirectly that Spouse had become a United States citizen and immediately began the process for filing the notice required under § 20.2056A-10(a)(2) that Spouse

PLR-122441-00

had become a United States citizen. On Date 5, the U.S. trustee of Trust filed the required notice on Form 706-QDT.

Taxpayer represents that no taxable distributions of principal have been made from Trust. Further, Taxpayer represents that Spouse was not a resident of the United States at all times after the QDOT was established.

You requested an extension of time to file the required notice so that future distributions from Trust to Spouse will be exempt from the tax imposed under § 2056A(b)(1).

Section 2056A(a) provides that for purposes of §§ 2056A and 2056(d), the term “qualified domestic trust” means, with respect to any decedent, any trust if –

(1) the trust instrument –

(A) requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation, and

(B) provides that no distribution (other than a distribution of income) may be made from the trust unless a trustee who is an individual citizen of the United States or a domestic corporation has the right to withhold from such distribution the tax imposed by this section on such distribution,

(2) such trust meets such requirements as the Secretary may by regulations prescribe to ensure the collection of any tax imposed by § 2056A(b), and

(3) an election under this section by the executor of the decedent applies to such trust.

Section 2056A(b)(1) imposes an estate tax on –

(A) any distribution before the date of the death of the surviving spouse from a qualified domestic trust, and

(B) the value of the property remaining in a qualified domestic trust on the date of the death of the surviving spouse.

Section 2056A(b)(12) provides that if the surviving spouse of the decedent becomes a citizen of the United States and if –

(A) such spouse was a resident of the United States at all times after the date of the death of the decedent and before such spouse becomes a citizen of the United States,

PLR-122441-00

(B) no tax was imposed by § 2056A(b)(1)(A) with respect to any distribution before such spouse becomes such a citizen, or

(C) such spouse elects –

(i) to treat any distribution on which tax was imposed by § 2056A(b)(1)(A) as a taxable gift made by such spouse for purposes of –

(I) § 2001, and

(II) determining the amount of the tax imposed by § 2501 on actual taxable gifts made by such spouse during the year in which the spouse becomes a citizen or any subsequent year, and

(ii) to treat any reduction in the tax imposed by § 2056A(b)(1)(A) by reason of the credit allowable under § 2010 with respect to the decedent as a credit allowable to such surviving spouse under § 2505 for purposes of determining the amount of the credit allowable under § 2505 with respect to taxable gifts made by the surviving spouse during the year in which the spouse becomes a citizen or any subsequent year,

§ 2056A(b)(1)(A) shall not apply to any distributions after such spouse becomes such a citizen (and § 2054A(b)(1)(B) shall not apply).

Section 20.2056A-10(a) provides that § 2056A(b)(12) provides that a QDOT is no longer subject to the imposition of the § 2056A estate tax if the surviving spouse becomes a citizen of the United States and the following conditions are satisfied –

(1) The spouse either was a United States resident (for the definition of resident for this purpose, see § 20.2056A-1(b)) at all times after the death of the decedent and before becoming a United States citizen, or no taxable distributions are made from the QDOT before the spouse becomes a United States citizen (regardless of the residency status of the spouse); and

(2) The U.S. Trustee(s) of the QDOT notifies the Internal Revenue Service and certifies in writing that the surviving spouse has become a United States citizen. Notice is to be made by filing a final Form 706-QDT on or before April 15<sup>th</sup> of the calendar year following the year in which the surviving spouse becomes a United States citizen, unless an extension of time for filing is granted under § 6081.

Section 301.9100-1(b) of the Procedure and Administration Regulations provides that the meaning of the term “election” includes an application for relief in respect of tax.

Section 301.9100-1(b) further provides that regulatory election means an election whose due date is prescribed by a regulation published in the Federal Register,

PLR-122441-00

or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-1(c) provides that the Commissioner in exercising the Commissioner's discretion may 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 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 301.9100-2 provides automatic extensions of time for certain elections.

Section 301.9100-3(a) provides that, in general, requests for extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2 must be made under the rules of § 301.9100-3. Requests for relief subject to this section 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.

Based on the facts submitted and representations made, we conclude that the requirements of § 301.9100-3 have been met in this case. Therefore, we grant an extension of time to notify the Internal Revenue Service that Spouse has become a United States citizen under § 20.2056A-10(a) until 30 days after the date of this letter.

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

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