

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
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Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B09
PLR-124344-05

Date:
August 11, 2005

LEGEND

Taxpayer =
Date 1 =
State =
Date 2 =
Date 3 =

Dear _____ :

This is in response to your authorized representative's letter of April 29, 2005, requesting a special actuarial factor to be used to value certain gifts made by Taxpayer during his lifetime.

The facts and representations are as follows: Taxpayer was born on Date 1. Taxpayer owned life estate interests in twenty parcels of real property located in State. On Date 2, Taxpayer released all of his life estate interests by deeding his life estate interest in each of the twenty parcels of real property to the owners of the remainder interests. At the time Taxpayer released his life estate interests in the twenty parcels of real property, Taxpayer had been medically diagnosed as suffering from metastatic cancer and his general overall health was failing. Taxpayer's medical prognosis was that he was terminally ill and that there was at least a fifty percent probability that Taxpayer would die within one year of Date 2. Taxpayer died on Date 3, 57 days after Date 2.

The representatives of Taxpayer's estate now request a ruling pursuant to § 25.2512-5(d)(4) of the Gift Tax Regulations and § 25.7520-3(b)(3) of the Procedure and Administration Regulations for the applicable actuarial factor to be used in valuing the Date 2 release of the life estate interests.

Section 25.2512-5(a) provides that except as otherwise provided in § 25.2512-5(b) and § 25.7520-3(b), the fair market value of annuities, unitrust interests,

life estates, terms of years, remainders, and reversions transferred by gift is the present value of the interests determined under § 25.2512-5(d).

Section 25.2512-5(c) provides that the present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift after April 30, 1999, is determined under § 25.2512-5(d).

Section 25.2512-5(d)(1) provides that if the valuation date for the gift is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversions transferred after April 30, 1999, is the present value of such interest determined under § 25.2512-5(d)(2) and by use of standard or special § 7520 actuarial factors.

Section 25.2512-5(d)(2)(iii) provides generally that if the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable § 7520 interest rate and term-of-years or life interest period).

Section 25.2512-5(d)(4) provides that if a special actuarial factor is required, the Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable facts, and a copy of the will, trust, or other relevant documents.

Section 25.7520-1(a)(1) provides that except as otherwise provided in this section and § 25.7520-3 (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of gifts made after April 30, 1999, the fair market value of annuities, interests for life or for a term of years (including unitrust interests), remainders, and reversions is their present value determined under this section.

Section 25.7520-1(b) provides generally that valuation under § 7520 consists of an interest rate component and a mortality component.

Section 25.7520-3(b)(3) provides that except as provided in § 25.7520-3(b)(3)(ii), the mortality component prescribed under § 7520 may not be used to determine the present value of an annuity, income interest, remainder interest, or reversionary interest if an individual who is a measuring life dies or is terminally ill at the time the gift is completed. For purposes of this paragraph, an individual who is known to have an incurable illness or other deteriorating physical condition is considered terminally ill if there is at least a 50 percent probability that the individual will die within 1 year. However, if the individual survives for eighteen months or longer after the date the gift is completed, that individual shall be presumed to have not been terminally ill at the date

the gift was completed unless the contrary is established by clear and convincing evidence.

In the present case, Taxpayer released life estate interests in each of twenty parcels of real property on Date 2. The releases constituted completed gifts to the owners of the remainder interests in the real property. At the time the gifts were made, Taxpayer had been diagnosed as being terminally ill with at least a fifty percent probability that he would die within one year of Date 2. Taxpayer died on Date 3. Because Taxpayer was terminally ill within the meaning of § 25.7520-3(b)(3) at the time of the Date 2 gifts, the mortality component prescribed under § 7520 for ordinary life estate interests may not be used to determine the present value of the life estate interests released by Taxpayer on Date 2. Thus, an actuarial factor of .03325 must be used in valuing the gifts.

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.

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.

Sincerely,

Melissa C. Liquerman
Branch Chief, Branch 9
(Passthroughs & Special Industries)

Enclosures

Copy for 6110 purposes