

STATEMENTS TO IRS & BENEFICIARIES REGARDING BASIS REPORTING POSTPONED UNTIL JUNE 30, 2016

IRS has again delayed the initial due date for providing statements to IRS and to beneficiaries, under the rules requiring consistent basis reporting for estate tax and income tax purposes, this time until June 30, 2016. (*Notice 201627, 201615 IRB 1*)

Background. The executor or administrator of a decedent's estate must file the estate tax return. (Code Sec. 6018(a))

If the executor or administrator is unable to make a complete return with respect to any part of the gross estate, he must include in his return all the information he has, including a description of such part and the name and address of every person holding a legal or beneficial interest in such part. If they are notified by IRS, such legal or beneficial owners must then file returns as to their parts of the estate. (Code Sec. 6018(b))

On July 31, 2015, President Obama signed into law the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (P.L. 11441; the Act). Section 2004 of the Act enacted Code Sec. 1014(f) and Code Sec. 6035).

Under the Act, effective for property with respect to which an estate tax return is filed after July 31, 2015, the basis of any property to which Code Sec. 1014(a) (i.e., the rules for determining basis of property acquired from a decedent) applies can't exceed:

(A) In the case of property, the final value of which has been determined for purposes of the estate tax on the estate of the decedent, such value.

(B) In the case of property not described in (A), above, and with respect to which a statement has been furnished under new Code Sec. 6035(a) (see below) identifying the value of such property, such value. (Code Sec. 1014(f)(1))

Code Sec. 6035 imposes new reporting requirements with regard to the value of property included in a decedent's gross estate for federal estate tax purposes.

Code Sec. 6035(a)(1) provides that the executor of any estate required to file an estate tax return under Code Sec. 6018(a) must furnish, both to IRS and the person acquiring any interest in property included in the decedent's gross estate for federal estate tax purposes, a statement identifying the value of each interest in such property as reported on such return and such other information with respect to that interest as IRS may prescribe.

Under Code Sec. 6035(a)(2), each person required to file a return under Code Sec. 6018(b) must furnish, both to IRS and each other person who holds a legal or beneficial interest in the property to which such return relates, a statement identifying the information described in Code Sec. 6035(a)(1). Code Sec. 6035(a)(3)(A) provides that each statement required to be furnished under Code Sec. 6035(a)(1) or Code Sec. 6035(a)(2) must be furnished at such time as IRS may prescribe, but in no case at a time later than the earlier of: (i) the date which is 30 days after the date on which the return under Code Sec. 6018 was required to be filed (including extensions, if

any); or (ii) the date which is 30 days after the date such return is filed. Previous delays. Notice 201557, 201536 IRB 294, provided that, for statements required under Code Sec. 6035(a)(1) and Code Sec. 6035(a)(2) to be filed with IRS or furnished to a beneficiary before February 29, 2016, the due date under Code Sec. 6035(a)(3) was delayed to February 29, 2016. Notice 201619, 20169 IRB 362, provided the same rule, except with March 31, 2016 substituted for February 29, 2016.

And, in temporary regulations issued earlier this month, IRS reiterated the March 31, 2016 date by saying that executors and other persons required to file or furnish a statement under Code Sec. 6035(a)(1) or Code Sec. 6035(a)(2) before March 31, 2016, need not do so until March 31, 2016.

IRS announces second delay.

IRS has now announced that statements required under Code Sec. 6035(a)(1) and Code Sec. 6035(a)(2) to be filed with IRS or furnished to a beneficiary before June 30, 2016 need not be filed with IRS and furnished to a beneficiary until June 30, 2016.