

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 301.6601-1: Interest on underpayments.
(Also Part I, §§ 163, 2053, 6166, 6601.)

Rev. Proc. 98-15

SECTION 1. PURPOSE

This revenue procedure provides procedures for estates of decedents dying before January 1, 1998, to make an election under § 503(d)(2) of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788 (the "Act"). This § 503(d)(2) election allows an estate to reduce the rate of interest on estate taxes deferred under § 6166 of the Internal Revenue Code and forgo the deduction for interest paid on the deferred estate taxes under §§ 2053 and 163(h).

SECTION 2. BACKGROUND

.01 Deferral of Estate Taxes.

(1) Section 6166 provides an election to extend the time for payment of estate tax where greater than 35 percent of the value of the adjusted gross estate consists of one or more interests in a closely held business. Only the estate of a decedent who, at the date of death, was a United States citizen or resident is eligible to make a § 6166 election.

(2) If an estate makes a § 6166 election, the estate tax may be paid in up to ten installments, with the first payment of tax due not more than five years after the date prescribed for payment of the tax. However, interest on the estate tax is not deferred. Under § 6166(f), the interest must be paid annually.

(3) Section 6601(a) imposes underpayment interest at the § 6621 underpayment rate, which for estates is the federal short-term rate plus 3 percentage points. However, § 6601(j), prior to its amendment by the Act, imposed a reduced interest rate of 4 percent on a portion (the "4-percent portion") of the estate tax deferred under § 6166. The 4-percent portion is the lesser of (i) \$345,800 reduced by the amount of the credit allowable under § 2010(a) (prior to amendment by § 501(a) of the Act), or (ii) the amount of deferred estate tax. The 4 percent rate continues to apply to estates of decedents dying before January 1, 1998, (the effective date of § 503 of the Act) unless such an estate properly makes the § 503(d)(2) election in the manner discussed below.

.02 Changes Made by the Act

(1) Reduced interest rates.

(a) In general. Section 503(a)(1) of the Act amends § 6601(j) to provide a 2-percent interest rate on the "2-percent portion" (defined below) of deferred estate tax. The interest rate on deferred estate tax in excess of the 2-percent portion is 45 percent of the underpayment rate determined under § 6621.

(b) 2-percent portion. Section 503(a)(2) of the Act provides that the 2-percent portion is an amount of deferred estate tax not exceeding the lesser of (i) the tentative tax under § 2001(c) computed on \$1,000,000 plus the § 2010(c) (as amended by § 501(a) of the Act) applicable exclusion amount, reduced by the § 2010(c) applicable credit amount, or (ii) the amount of the deferred estate tax.

(2) Elimination of interest deduction. Section 503(b) of the Act amends §§ 163 and 2053 to eliminate both the income tax and the estate tax deductions for interest paid on § 6166 deferred estate tax.

(3) Effective dates. Pursuant to § 503(d)(1) of the Act, the amendments described in this section 2.02 generally apply to estates of decedents dying after December 31, 1997. However, § 503(d)(2) provides that any estate of a decedent dying before January 1, 1998, that has made a § 6166 election may elect to have the reduced interest rates and nondeductibility amendments (but not the 2-percent portion) contained in § 503 apply to installments due after the effective date of the election. The election must be made before January 1, 1999, in a manner prescribed by the Secretary and, once made, is irrevocable.

SECTION 3. SCOPE

This revenue procedure applies to estates of decedents dying before January 1, 1998, that properly elect under § 6166 to defer payment of estate taxes, and that wish to elect to apply the new

reduced interest rates of § 6601(j), as amended, and forgo the estate tax and income tax deductions for interest paid on deferred estate tax. The new rates and the nondeductibility provision apply automatically in the case of estates of decedents dying after December 31, 1997.

SECTION 4. PROCEDURE

.01 Making a § 503(d)(2) Election. After August 5, 1997, but before January 1, 1999, an estate may make a § 503(d)(2) election by writing a letter to the Service Center where the next installment of estate tax or interest is due. If an estate of a decedent dying before January 1, 1998, has not filed an estate tax return as of January 26, 1998, the letter may be attached to the estate tax return. No § 503(d)(2) election may be made before a § 6166 election is made. The letter must include the following information:

- (1) the decedent's name;
- (2) the estate's EIN;
- (3) a statement that the letter is an election under § 503(d)(2) of the Taxpayer Relief Act of 1997; and
- (4) the due date of the installment of estate tax or interest for which the election is to be effective.

The letter must be signed and dated by the executor. Once made, the § 503(d)(2) election cannot be modified or revoked.

.02 Effective Date of the § 503(d)(2) Election. Generally, a § 503(d)(2) election is effective beginning with the first installment of estate tax or interest due on or after the date

the election is filed with the appropriate Service Center. However, a § 503(d)(2) election made by April 27, 1998, will be effective beginning with any installment, designated by the executor, due after August 5, 1997, and on or before April 27, 1998. Any assessment that was proper when made, but that becomes excessive as a result of the election, will be abated. Future installments due will be calculated and any overpayment of an installment of either tax or interest will be applied to the next installment in accordance with § 6403.

SECTION 5. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1585.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this revenue procedure are contained in SECTION 4 of this revenue procedure. This information is required to verify that estates are electing under § 503(d)(2) of the Taxpayer Relief Act of 1997 to apply the reduced interest rates of § 6601(j), as amended, to deferred estate taxes. The likely respondents are estates.

The estimated total annual recordkeeping burden will be 3,300 hours.

The estimated annual burden per respondent will vary from 15

minutes to 45 minutes, depending on individual circumstances, with an estimated average of 30 minutes.

The estimated number of respondents is 6,600.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is Brendan P. O'Hara of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure contact Brendan P. O'Hara at (202) 622-4910 (not a toll-free call).