TaxNewsFlash

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Proposed regulations: Administration expenses, claims against estates, interest expense on amounts owed by estates (text of regulations)

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register proposed regulations (REG-130975-08) to amend the existing estate tax regulations under section 2053.

The **proposed regulations** [PDF 365 KB] (13 pages as published in the Federal Register on June 28, 2022):

- Provide guidance on the proper use of present-value principles in determining the amount deductible by an estate for funeral expenses, administration expenses, and certain claims against the estate
- Provide guidance on the deductibility of interest expense accruing on tax and penalties owed by an estate, and interest expense accruing on certain loan obligations incurred by an estate
- Amend and clarify the requirements for substantiating the value of a claim against an estate that is deductible in certain cases
- Provide guidance on the deductibility of amounts paid under a decedent's personal guarantee

The proposed regulations will affect estates of decedents seeking to deduct funeral expenses, administration expenses, and/or certain claims against the estate under section 2053.

A public hearing will be held on October 12, 2022, at 10 a.m. EST. Comments are due by September 26, 2022.

Overview

The preamble to the proposed regulations explains that estates often cannot pay every deductible claim and expense within a short time after the decedent's death, and that a significant percentage of estates pay most, if not all, of their ordinary estate administration expenses during the three-year period following the decedent's date of death.

The preamble continues to explain that this three-year period takes into account a reasonable time for administering and closing the estate. However, a reasonably short period of time between the decedent's death and the payment of a claim prevents the lack of a present-value discount from significantly distorting the value of the net (distributable) estate. Thus, applying present-value principles in computing the deductible amount of those claims and expenses paid more than three years after the decedent's death "strikes an appropriate balance between benefits and burdens."

The proposed regulations are intended to amend the regulations under section 2053 to require the discounting to present value of certain amounts paid or to be paid in settlement or satisfaction of certain claims and expenses in determining the amount deductible. Specifically, the proposed regulations require calculating the present value of the amount of a deductible claim or expense described in section 2053(a) and Reg. section 20.2053-1(a) that is not paid or to be paid on or before the third anniversary of the decedent's date of death (this three-year period being defined as the "grace period").

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