



TaxNewsFlash

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Rev. Proc. 2022-32: Simplified method to obtain extension of time to make “portability” election with respect to decedent’s unused exclusion amount

The IRS today released an advance version of Rev. Proc. 2022-32 that provides a simplified method for certain taxpayers to obtain an extension of time to make a “portability” election under section 2010(c)(5)(A).

[Rev. Proc. 2022-32](#) [PDF 106 KB] is effective July 8, 2022.

Summary

For purposes of federal estate and gift taxes, a portability election allows a decedent’s unused exclusion amount to become available for application to the surviving spouse’s subsequent transfers during life or at death.

On June 26, 2017, the IRS published Rev. Proc. 2017-34 to provide a method for obtaining an extension of time to make a portability election under section 2010(c)(5)(A) that is available to the estates of decedents dying after December 31, 2010, if that estate was not required by section 6018(a) to file an estate tax return and if such a decedent was survived by a spouse. Under Rev. Proc. 2017-34, this method is a simplified method that is to be used in lieu of the letter ruling process and is available for a period extending to the second anniversary of the decedent’s date of death.

Since the publication of Rev. Proc. 2017-34, the IRS has continued to issue numerous letter rulings granting an extension of time to elect portability under section 2010(c)(5)(A) in situations in which the decedent’s estate was not required by section 6018(a) to file an estate tax return and the time for obtaining relief under the simplified method had expired. The IRS has observed that a significant percentage of these ruling requests have been from estates of decedents who died within five years preceding the date of the request. The number of these requests continues to place a significant burden on the available resources of the IRS.

The IRS has determined that the considerable number of ruling requests for an extension of time to elect portability received since the publication of Rev. Proc. 2017-34 indicates a need for continuing relief for the estates of decedents having no filing requirement under section 6018(a). Accordingly, Rev. Proc. 2022-32 supersedes Rev. Proc. 2017-34 and updates the procedures by extending the period within which the estate of a

decedent may make the portability election under that simplified method to on or before the fifth anniversary of the decedent's date of death.

The simplified method provided by Rev. Proc. 2022-32 is to be used instead of the letter ruling process. No user fee is required for submissions filed under today's revenue procedure.

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