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[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9757]

RIN 1545-BM98

Consistent Basis Reporting Between Estate and Person Acquiring Property From Decedent

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide transition rules providing that executors and other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016. These temporary regulations are applicable to executors and other persons who file after July 31, 2015, returns required by section 6018(a) or (b).

DATES: Effective date. These regulations are effective on **[insert date of publication in the Federal Register]**.

Applicability dates: For date of applicability, see §1.6035-2T(b).

FOR FURTHER INFORMATION CONTACT: Theresa Melchiorre (202) 317-6859 (not a toll-free number).

### Background

On July 31, 2015, the President of the United States signed into law H.R. 3236,

the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Public Law 114-41, 129 Stat. 443 (Act). Section 2004 of the Act added new section 6035.

Section 6035 imposes reporting requirements with regard to the value of property included in a decedent's gross estate for federal estate tax purposes. Section 6035(a)(1) provides that the executor of any estate required to file a return under section 6018(a) must furnish, both to the Secretary and to 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 such interest as the Secretary may prescribe.

Section 6035(a)(2) provides that each other person required to file a return under section 6018(b) must furnish, both to the Secretary and to each person who holds a legal or beneficial interest in the property to which such return relates, a statement identifying the same information described in section 6035(a)(1).

Section 6035(a)(3)(A) provides that each statement required to be furnished under section 6035 (a)(1) or (2) is to be furnished at such time as the Secretary 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 section 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.

On August 21, 2015, the Treasury Department and the IRS issued Notice 2015-57, 2015-36 IRB 294. Notice 2015-57 delays until February 29, 2016, the due date for

any statements required by section 6035 that are due before that same date.

On February 11, 2016, the Treasury Department and the IRS issued Notice 2016-19, 2016-09 IRB . That notice provides that executors or other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016.

### **Explanation of Provisions**

These temporary regulations reiterate that executors or other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016. The text of these temporary regulations also serves as the text of the proposed regulations under §1.6035-2 in the related notice of proposed rulemaking (REG-127923-15) in the Proposed Rules section of this issue of the Federal Register. These temporary regulations are issued within 18 months of the date of the enactment of the statutory provisions to which the temporary regulations relate and, as authorized by section 7805(b)(2), are effective/applicable to executors and other persons who file a return required by section 6018(a) or (b) after July 31, 2015.

### **Statement of Availability of IRS Documents**

IRS Revenue Procedures, Revenue Rulings notices, notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

## **Special Analyses**

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. In addition, section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations because they are excepted from the notice and comment requirements of section 553(b) and (c) of the Administrative Procedure Act under the interpretative rule and good cause exceptions provided by section 553(b)(3)(A) and (B) of that Act. The Act included an immediate effective date, thus making the first required statements due 30 days after enactment. It is necessary to provide more time to provide the statements required by section 6035(a) to allow the Treasury Department and the IRS sufficient time to issue both substantive and procedural guidance on how to comply with the section 6035(a) requirement and to provide executors and other affected persons the opportunity to review this guidance before preparing the required statements. These regulations reiterate the relief in Notice 2016-19 and, because of the immediate need to provide relief, notice and public comment pursuant to 5 U.S.C. 553(b) and (c) is impracticable, unnecessary, and contrary to the public interest. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the Special Analyses section of the preamble to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section in this issue of the Federal Register. Pursuant to section 7805(f) of the Internal Revenue Code (Code), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for

comment on their impact on small business.

### **Drafting Information**

The principal author of these temporary regulations is Theresa Melchiorre, Office of the Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

### **Temporary Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

#### **PART 1—INCOME TAXES**

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U. S. C. 7805 \* \* \*

\* \* \* \* \*

Section 1.6035-2T also issued under 26 U.S.C. section 6035.

\* \* \* \* \*

Par. 2. Section 1.6035-2T is added to read as follows:

#### **§1.6035-2T Transitional relief.**

(a) Statements due before March 31, 2016. Executors and other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016.

(b) Effective/applicability date. This section is effective/applicable to executors and other persons who file a return required by section 6018(a) or (b) after July 31, 2015.

John Dalrymple,

Deputy Commissioner for Services and Enforcement

Approved: January 22, 2016.

Mark J. Mazur,

Assistant Secretary of Treasury (Tax Policy).

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