



Estate Administrative Update: IRS Notice Confirms Account Transcripts May Serve as Estate Tax Closing Letter

01.13.2017

Recently, the IRS issued Notice 2017-12, providing further guidance on ways to confirm that the IRS has closed its examination of an estate tax return. Notice 2017-12 officially confirms what the IRS website has said for some time (and what we've previously written about here). That is, an account transcript issued by the IRS can be a valid substitute for an estate tax closing letter, so long as the transcript bears the proper transaction code.

Estate Tax Closing Letter

An estate tax closing letter is evidence that the IRS has accepted an estate tax return as filed and that the federal tax liabilities of the estate are satisfied. Once received, the letter indicates to the executor of the estate that it is okay to proceed with closing out the estate administration process. The receipt of an estate tax closing letter is often required to satisfy state law probate proceedings by courts or commissioners of accounts. The IRS generally will not reopen or reexamine an estate tax return when a closing letter has been issued except in certain extreme circumstances, such as fraud, substantial error by the IRS, or when a failure to reopen would be a serious administrative omission.

For all estate tax returns filed on or after June 1, 2015, the IRS no longer automatically issues estate tax closing letters to the taxpayer's representative. Instead, the taxpayer's representative will receive a closing letter only upon affirmative request.

Account Transcripts In Lieu of Closing Letter

In Notice 2017-12, the IRS confirms that a taxpayer's IRS account transcripts bearing the transaction code 421 are an acceptable substitute for an estate tax closing letter. Transaction code 421 means that Form 706 has been accepted as filed and an examination has been concluded. When containing transaction code 421, the account transcripts serve as a functional equivalent of an estate tax closing letter. Thus, either the transcripts or a closing letter will be sufficient to wind up the estate and distribute assets to beneficiaries.

Requesting Account Transcripts

A taxpayer's authorized representative can obtain the taxpayer's account transcripts either online through the IRS's Transcript Delivery Service or by fax or mail through filing Form 4506-T. Account transcripts are issued to representatives only when a properly executed Form 2848 Power of Attorney or Form 8821 Tax Information Authorization in favor of that representative is already on file.

Requesting a Closing Letter

To request an estate tax closing letter, the IRS's website provides that the estate's personal representative should call (866) 699-4083 and provide to the IRS the following information: (i) the name of the decedent; (ii) the decedent's social security number; and (iii) the date of death. The closing letter will then be issued to the executor at the address of record.

Timetable for Requesting Account Transcripts or Closing Letter

In requesting either an estate tax closing letter or account transcripts, the IRS notes that a decision to audit a Form 706 is typically made within four to six months after the date of filing. This means that taxpayer representatives should wait at least four months after Form 706 is filed before requesting account transcripts or an estate tax closing letter.

Will Requesting a Closing Letter Invite Audit?

Some executors have expressed fear that requesting a closing letter will invite audit, but our experience suggests that this may not be the case. In our experience, closing letters have been issued in less than a week, thereby allowing the executor to move forward with the conclusion of the estate administration process. Of course, larger estates where estate tax is being paid, especially those with hard-to-value assets, will almost always attract the attention of the IRS and be selected for audit. We do not see the new procedures changing this experience.

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