



# **Pioneer Bank & Trust**

## **Trust & Investments**

### *Local.*

704 7th Ave, PO Box 729  
Belle Fourche, SD 57717-0729  
Phone (605) 892-3494  
Fax (605) 892-2115

2001 W Omaha St, PO Box 9189  
Rapid City, SD 57709-9189  
Phone (605) 341-2265  
Fax (605) 341-7425

140 E Jackson Blvd, PO Box 10  
Spearfish, SD 57783-0010  
Phone (605) 642-2725  
Fax (605) 642-1736

#### **Extension granted to make a portability election.**

##### **Private Letter Ruling 201603007**

Decedent died after Congress provided for the portability of a deceased spouse's unused exemption amount (DSUE). Because Decedent's estate was below the filing threshold, no federal estate tax return was filed. Accordingly, the DSUE election was not made.

Perhaps the surviving spouse was doing some new estate planning, and the new advisor inquired about the election. The Ruling does not provide the back story, all we know is that an extension of time was requested to file the estate tax return for the sole reason of making the DSUE election. IRS gave the estate another 120 to make the filing, given the fact that no estate tax return was ever required for the small estate.

There has been a spate of similar private rulings recently. For example, see *Private Letter Ruling 201549022* and *Private Letter Ruling 201548004*.

#### **QTIP election held void.**

##### **Private Letter Ruling 201603004**

Decedent's will created a family trust (income to Surviving Spouse, with a limited testamentary power of appointment) of sufficient size to reduce his estate taxes to zero. The trust was so funded, and the balance of the estate passed to Surviving Spouse outright. Spouse, as the executor of the estate, prepared the federal estate tax return. She listed the trust assets on Schedule M, thereby making a QTIP election for them.

That election was not needed to bring estate taxes down to zero. In accordance with *Rev. Proc. 2001-38*, the IRS will treat the election as void for purposes of estate, gift and generation-skipping transfer taxes. Accordingly, the trust won't be included in Spouse's estate when she dies (and there will be no future basis step-up), nor will she be treated as making a taxable gift if she disposes of her income interest.

(February 2016)

© 2016 M.A. Co. All rights reserved.