



Form 8971: Consistent Basis Reporting Between Estate and Persons Acquiring Property From a Decedent

12.28.2015

Recent changes to the law have imposed upon executors of a decedent's estate new reporting obligations with regard to a decedent's property. In short, the changes require executors, and others if necessary, to file with the IRS a statement identifying the value of each interest of property included in the decedent's gross estate. This statement must also be furnished to each person acquiring an interest in the property that is part of the decedent's gross estate. In essence, the statement is meant to ensure consistent basis reporting by all parties with respect to property that passes through a decedent's gross estate. To aid executors and others required to file such a statement, the IRS recently issued a draft Form 8971, which in its final form will be used to report such information.

Statement Required

On July 31, 2015, the President of the United States signed into law the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (P.L. 114-41). Among other things, this law enacted two new sections of the Internal Revenue Code (the "Code").

Newly enacted Section 1014(f) of the Code requires that the basis of certain property acquired from a decedent may not exceed the value of that property as finally determined for purposes of the federal estate tax. If such value has not been finally determined for purposes of the estate tax, then § 1014(f) of the Code sets the basis ceiling at the value of the property as reported on the statement made under § 6035 of the Code, the other newly enacted section of the Code.

Section 6035 of the Code provides that each person required to file a return, whether as an executor under § 6018(a) of the Code or a legal or beneficial interest holder under § 6018(b) of the Code, must file with the Secretary and furnish to each person who acquires any interest in the property of the decedent's gross estate a statement identifying the value of each interest in such property as reported on the estate tax return.

These two new sections have been enacted to ensure that the basis of the property included in the

decedent's gross estate is reported consistently.

The Statement: Form 8971

The statement described in § 6035 of the Code takes the form of Form 8971. As stated earlier, the IRS recently issued Form 8971 in draft form. In its current form, Form 8971 is not final and should not yet be used by executors until the IRS has completed its analysis of the many comments and suggestions relating to Form 8971 and has issued a final version. Once the final version has been issued, executors and others required to file an estate tax return under § 6018 of the Code should file Form 8971 with the IRS and furnish a copy to each person acquiring any interest in property included in the decedent's gross estate. You can find a link to Form 8971 in draft form [here](#).

Timing of the Statement

Section 6035(a)(3)(A) of the Code provides that each statement must be filed with the IRS and furnished to the persons acquiring an interest in the property of the decedent's gross estate either thirty days after the estate tax return under § 6018 of the Code was due to be filed, including extensions, or thirty days after the estate tax return was actually filed, whichever is earlier. In addition, in situations where adjustments were made to the information on the statement after the statement was filed with the IRS, the Code requires that a supplemental statement be filed no later than thirty days after the date of the adjustment.

In connection with the timing requirements imposed under § 6035(a)(3)(A) of the Code, the IRS has issued Notice 2015-57. This Notice provides that, for any statements due to be filed after July 31, 2015 but before February 29, 2016, the normal timing requirements under § 6035 of the Code do not apply. Instead, any required filing is delayed until February 29, 2016; thus no statement needs to be filed or furnished to the appropriate parties until that date. The delay is being instituted, according to the IRS, to permit the Treasury Department and the IRS to issue guidance implementing the reporting requirements under § 6035 of the Code.

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