



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

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SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTOR, CAMPUS COMPLIANCE OPERATIONS

FROM: Katheryn N. Houston /s/ Katheryn N. Houston
Acting Director, Specialty Programs for
Ruth Perez, Director, Specialty Programs

SUBJECT: Interim Guidance on Extension of Time to File Gift Tax Returns

The purpose of this memorandum is to provide guidance for processing extensions of time to file Form 709, "United States Gift (and Generation-Skipping Transfer) Tax Return", pursuant to Internal Revenue Code section 6081. Attached are procedures established for processing Form 8892, *Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax*. Included are the responsibilities of the Estate & Gift Tax Campus Operation in processing these requests for extensions of time to file gift tax returns. Please ensure that this information is distributed to all affected employees within your organization.

This new guidance will be incorporated into the Internal Revenue Manual (IRM) 4.25.2 by December 30, 2008.

If you have any questions regarding these interim procedures, please contact Estate & Gift Tax Policy, Attorney-Advisory Albert Sicking.

Attachment

cc: www.irs.gov

4.25.2 Extension of Time to File Gift (Generation-Skipping Transfer) Tax Return— IRC 6081

1. A Form 709, “United States Gift (and Generation-Skipping Transfer) Tax Return” is generally due on April 15 following the close of the calendar year in which the gift was made. If the donor dies in the calendar year in which the donor made a gift, the Form 709 is due on or before the due date of the estate tax return (including extensions), or on April 15 of the year following the calendar year of the gift, whichever date is earlier.
2. Except as provided below with respect to certain U.S. citizens and residents living outside the United States, an extension of time to file a gift tax return may not exceed six months from the due date of the return. IRC §6081; Treas. Reg. § 1.6081-1(a).
3. A request for an extension of time to file must be made by the due date of the return, without extensions.
4. Upon a timely request, an automatic 6-month extension of time to file a gift tax return will be granted. Treas. Reg. § 25.6081-1T. No acknowledgement of the automatic extension approval is sent to the taxpayer.
5. Form 8892, Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax, is used to request an automatic 6-month extension of time to file a gift tax return where the taxpayer is not also requesting an extension to file Form 1040. (The Form 8892 may also be used as a payment voucher only.) The Form 1040 extension request, Form 4868, is used to request an automatic 6-month extension of time to file both the Forms 1040 and 709.
6. **Special rules for extensions of time to file gift tax returns for citizens and residents living outside the United States.** United States citizens or residents with tax homes or abodes outside the United States, or who are in military or naval service on duty outside the United States or Puerto Rico, receive an automatic two-month extension for filing income tax returns and paying any tax shown on the return. §1.6081-5(a)(5)-(a)(6). To receive this extension, the taxpayer must attach a statement to the return showing that the taxpayer is described in §1.6081-5(a). Treas. Reg. §1.6081-5T(b)(1). Such citizens or residents may also request a six-month extension to file their income tax returns (but not an extension to pay tax) by filing Form 4868 “Application for Automatic Extension of Time to File U.S. Individual Income Tax Return” no later than the last day of the two-month extension granted under §1.6081-5(a). Treas. Reg. §1.6081-5T(b)(2). The automatic six month extension will run concurrently with the two- month extension of time granted by §1.6081-5(a). Treas. Reg. §1.6081-4T(a)(1). Such an extension of time to file a return on Form 4868 will be deemed to be a six-month extension to file a return on Form 709. Treas. Reg. §25.6081-1T.

7. If the donor does not obtain a six month extension to file his or her income tax return under §1.6081-4T(b), the donor may request an automatic six-month extension of time to file Form 709 by filing Form 8892 "Payment of Gift/GST Tax and/or Application for Extension of Time To File Form 709" no later than the due date of the return or the expiration of the two month extension granted under §1.6081-5(a). Treas. Reg. §25.6081-1T. This automatic extension will also run concurrently with the two month extension granted by §1.6081-5(a). [The temporary regulations referred to herein expire on 11/4/2008 unless they are adopted as final regulations.]
8. Requests for an extension of time to file a return are submitted to the Internal Revenue Service office where the return is required to be filed. Form 4868 requesting an extension of time to file a Form 1040 and any Form 709 for that same year are filed with the Campus where the taxpayer's Form 1040 should be filed.
9. Forms 709 are required to be filed with the Cincinnati Campus.
10. All Form 8892 requests for extensions of time to file postmarked after the due date of the Form 709 shall be denied.
11. An extension of time for filing a Form 709 does not extend the time for payment of tax. Treas. Reg. 20.6081-1(e).
12. To avoid imposition of a failure to file penalty, a return as complete as possible must be filed before the extension date expires.
13. APPROVED actions for extensions of time to file:
 - a. Initiate research, using local processing procedures (i.e., BMFOL, INOLE) to see if an account has been established for the SSN on the BMF for MFT 51. If the account cannot be found through research, establish the Entity, and MFT 51.
 - b. If the extension is APPROVED, use Command Code REQ77 or REQ77A and input a TC 460 and the extension approved to date.
 - c. Notate on IDRS, Form 8892 received in remarks section.
14. DENIED actions for extension of time to file:
 - a. If the extension request is DENIED, use Command Code REQ77 and input a transaction code (TC) 460 and the original return due date, or the previously approved extension date (whichever is later). At the end of the data on the screen, type "Denied."
 - b. Send Letter 297C advising the taxpayer of the denial of the extension request. Use the appropriate paragraphs in the explanation.
 - c. A case should be set up in a suspense file and monitored for filing of the return.