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Updated: Consistent Basis Reporting Is Now the Law of the Land

ESTATE PLANNING, TAX
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This article is updated information from our original article posted on February 24, 2016.

Recent changes to the law have imposed new reporting requirements upon executors of decedents' estates. On July 31, 2015, President Barack Obama signed into law the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "Act"). Contained in the Act are two new provisions of the Internal Revenue Code (the "Code") intended to curb perceived abuses with respect to inconsistent basis reporting by beneficiaries who receive property from a decedent's estate.

Newly enacted Code Section 1014(f) requires estate beneficiaries to use finally determined estate tax values as the basis of assets inherited from a decedent. Beneficiaries are no longer able to take positions on their federal income tax returns that their basis in property received from a decedent is higher than the fair market value of the property as reported on the decedent's federal estate tax return.

If an executor is required to file a federal estate tax return, Code Section 6035 requires such executor to report valuation information to all beneficiaries who inherit assets from the estate and to the Internal Revenue Service (the "IRS"). The statements must be furnished by the earlier of 30 days after the estate tax return was due to be filed, including extensions, or 30 days following the actual filing of the returns.

The reporting requirements are effective for all estates that filed estate tax returns after July 31, 2015. To provide for transitional relief, the IRS announced last August that executors required to furnish valuation statements were not required to do so until February 29, 2016, by which time forms or other published guidance on the topic of basis reporting were expected to have been released. On January 28, 2016, the IRS issued the final version of Form 8971, titled "Information Regarding Beneficiaries Acquiring Property From a Decedent," upon which taxpayers will furnish the required information.

In accordance with the Form 8971 instructions, a completed Form 8971, together with a Schedule A for each beneficiary receiving property from an estate, must be filed with the IRS by the due date as described above. Executors need not distribute copies of the Forms 8971 to the beneficiaries, but must satisfy their reporting to such beneficiaries by providing each beneficiary with a copy of his or her respective Schedule A. Penalties may be imposed upon executors who fail to furnish the required statements as well as upon beneficiaries who engage in inconsistent

basis reporting.

In response to taxpayer concerns regarding certain ambiguities in the form, the IRS announced in February that the deadline for filing Forms 8971 would be extended until March 31, 2016. Proposed regulations providing guidance to executors were issued on March 3. The regulations clarify that property that qualifies for the charitable and marital deductions is not required to be disclosed on Form 8971 because it does not increase the estate tax liability. Taxpayers are also pleased to learn that the filing requirements do not apply to estate tax returns filed solely for the purposes of making a portability election or a generation-skipping transfer tax election.

[Contact us with questions regarding IRS Form 8971](#) and [visit our Estate Planning services page](#) to learn about the services that the Schneider Downs Tax Advisors offer.

Sources

Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (P.L. 114-41)
IRC §1014(f)
IRC §6035
IRS Notice 2015-57
IRS Notice 2016-19
REG-127923-15

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