

## Feature: Fiduciary Professions

By Michael M. Mariani

### As the Hearse Pulls Away...

A guide to the executors' first election choices

**D**uring the course of an estate's administration, a personal representative performs four basic functions: (1) marshals assets; (2) determines and raises cash needs; (3) pays reasonable funeral expenses, debts, administration expenses and taxes; and (4) distributes assets in accordance with the terms of the decedent's will, trust agreement or, if the decedent dies without a will, the laws of intestate distribution.

When performing these tasks, the personal representative is faced with numerous elections. Indeed, depending on the nature of the assets and the value of the estate, one can identify more than 100 different elections that may be encountered during an estate's administration. The personal representative should be cautious in the exercise or non-exercise of each, as each election may have estate tax, gift tax, income tax and generation-skipping transfer (GST) tax consequences.

There are various factors a personal representative must consider when making even the most basic elections. Let's examine some of the most essential. (To create a starting point, I have included "Stay on Top of It," which is an abridged schedule identifying some of the most common federal forms and due dates that a personal representative will encounter during an estate's administration.)



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- **Final income tax return**—The decedent's final income tax is due on the regular filing date (generally April 15) as if the decedent had lived for the entire taxable year.<sup>1</sup> The final return will include income and deductions for the period beginning with the first day of the taxable year (generally January 1) and ending with the date of death. The estate's personal representative or "other person charged with the property of such decedent," is responsible for filing the decedent's final return.<sup>2</sup> The personal representative is also responsible for filing returns for the years prior to death, if those returns were not filed.

The decedent's accountant is often the primary source for obtaining copies of the decedent's most recent income tax returns. The income tax returns can provide information concerning the identity and the location of income producing assets, such as bank accounts, brokerage accounts, real estate, closely held business interests, partnership interests, pension and profit-sharing plans and interests in trusts and estates. The accountant also may be able to provide information regarding any recent changes in the decedent's assets, which would not appear on the decedent's previously filed returns.

If income tax returns for prior years are unavailable, or if there is uncertainty about whether such returns were filed, the personal representative should consider submitting Internal Revenue Service Form 4506 (Request for Copy of Tax Return) to the appropriate Service Center to secure copies of those returns.<sup>3</sup> In addition, the taxpayer may submit Form 4506-T (Request for Transcript of Tax Return) to secure basic information such as tax return transcripts, W-2 information and, more importantly, verification of non-filing, if that situation exists.<sup>4</sup> Often this information is obtained more quickly than the actual copy of the return.

• **Automatic six-month extension of time to file return**—One of a personal representative's first decisions is whether to secure an automatic six-month extension of time to file the decedent's final federal and state personal income tax returns. The request for the extension to file the federal income tax return is made by filing IRS Form 4868 (Application for Automatic Extension of Time to File U.S. Individual Income Tax Return) on or before the regular due date of that return.<sup>5</sup> Filing Form 4868 also will extend the time to file the decedent's gift tax return, which might otherwise be due.

Although the timely filing of Form 4868 automatically extends the time to file the federal income and gift tax returns, it does not extend the time to pay any taxes.<sup>6</sup> If state or local income tax returns are due, check with local taxing authorities to determine what additional steps, if any, need to be taken to secure an extension of time to file those returns.

• **Joint return vs. separate return**—If the decedent was married when he died and the surviving spouse has not remarried before the end of her taxable year, the personal representative and surviving spouse can file a joint return on behalf of the decedent and the surviving spouse.<sup>7</sup> A joint return is not available if either spouse was a non-resident alien at any time during the taxable year.<sup>8</sup>

A joint return will include the decedent's income and deductions for the period ending at the date of death and include the surviving spouse's income and deductions for the entire year.<sup>9</sup> The primary advantage of filing a joint return is that the income is subject to more favorable tax rates; otherwise, the less favorable tax rates for married people filing separately must be used by each of the parties.

Consider filing a joint return for the year of death if the decedent's deductions exceed income, thereby avoiding the loss of excess deductions in the final tax year. For example, capital loss carryovers under Internal Revenue Code Section 1212, unused net operating loss carryovers under IRC Section 172(b) and unused charitable contribution carry forwards under IRC Section 170(d)(1) may be wasted if separate returns are filed. By filing a joint return, the surviving spouse has the opportunity to generate capital gains or other income in the final tax year that could be offset by such excess deductions.

The major disadvantage of filing a joint return is that the estate becomes jointly and severally liable for the tax, interest and penalties for that particular taxable year.<sup>10</sup> This liability can create a problem in a second or third marriage situation, if the liability is payable out of the decedent's residuary estate and children from a prior marriage are the beneficiaries of those assets. Consequently, when making this election, personal representatives should give serious consideration to the risk of the surviving spouse's unknown tax liabilities.

• **U.S. savings bonds, IRC Section 454(a)**—Individuals who own series E or EE U.S. Savings Bonds (and HH bonds received in a tax-free exchange for E or EE bonds) normally do not elect to annually report the increase in the redemption price of these bonds as taxable income. If a decedent did not make this election, the personal representative of the estate may do so and the previously unreported interest on the bonds will be included in gross income on the decedent's final income tax return.<sup>11</sup>

This election presents a good planning opportunity for accelerating income on the decedent's final return, if there will be excess deductions reportable on that return by either the decedent or the surviving spouse. This election also should be considered to take advantage of the lower tax rates on the decedent's final return if: (1) the bonds are payable to the estate, with its very high tax rates; or (2) the beneficiaries of the estate (or the designated beneficiaries of the bonds) are in a higher tax bracket than the decedent. If the election is made, it must be made for all such bonds.

If the IRC Section 454(a) election is not made, the unreported interest is considered income in respect of a decedent (IRD), taxable to the estate or beneficiary under IRC Section 691(a). This income may be offset by the IRD deduction, allowed under IRC Section 691(c). One advantage of not making this election is that the personal representative will have the ability to redeem the bonds over a period of several taxable years, potentially reducing the income tax consequences of the redemptions. Regardless of whether this election is made, the bonds are includible in the decedent's gross estate at a value equal to the sum of the principal and accrued interest through the date of death.

• **Estate's fiduciary income tax return**—Subchapter J of the Internal Revenue Code provides the general rules for the income taxation of estates, which are treated as separate entities for income tax purposes. Generally, estates are taxed in the same manner as individuals. The income items reported by an estate are similar to those reported by an individual. Most credits and deductions allowable to an individual also are allowable to an estate.

There are, however, several differences with an estate's income tax return. First, a fiduciary income tax return is required if the estate has gross income of \$600 or more<sup>12</sup> (well below the threshold for individuals) or if the estate has a beneficiary who is

### Failing to adopt a fiscal year may have detrimental income tax consequences for the estate and its beneficiaries.

a non-resident alien.<sup>13</sup> Second, an estate reaches the maximum 35 percent federal income tax bracket when it reports taxable income greater than \$11,150 while a single taxpayer or a married taxpayer who is filing a joint return reaches the maximum 35 percent bracket when he reports taxable income greater than \$372,950.<sup>14</sup> Also, an estate is allowed an "income distribution deduction" for certain distributions made to beneficiaries<sup>15</sup> and any income retained is taxable to the estate.

Accordingly, when making a distribution to a residuary beneficiary of an estate, a personal representative must consider not only the timing of that distribution, but also the income tax consequences of that distribution to the estate and to the beneficiary.

IRC Section 644, which requires all trusts to adopt a calendar year as their taxable year, does not apply to estates. The selection of the tax year is one of the most important elections available to estates. It must be made by the personal representative on the first fiduciary income tax return, which is due three and one-half months after the close of the taxable year.<sup>16</sup> The primary objectives of this election are to: (a) equalize the income tax brackets of the

estate and the residuary beneficiaries; (b) defer the payment of income taxes; and (c) take advantage of the estate's \$600 exemption and separate taxpayer status.

In considering this election, the personal representative should project the anticipated income and estimated deductible expenses during the early stages of the estate's administration. The selection of the tax year should be considered as early as three months after the decedent's death, so as to not miss the opportunity to report some of the estate's income on an initial short taxable year. Even in situations that warrant making substantial distributions shortly after a decedent's death, with proper planning, a personal representative may be able to salvage an estate's income tax plan. A personal representative may defer the tax on the estate's receipt of substantial sums of income for more than one year by electing an initial short year that ends prior to the receipt of that income. An initial long tax year may be warranted if the beneficiaries have no immediate need for a distribution or if the estate incurs substantial deductible expenses during the earlier stages of the estate's administration.

If the personal representative fails to adopt a fiscal year, the estate must file its income tax return on a calendar year basis,<sup>17</sup> which may have detrimental income tax consequences for the estate and the beneficiaries. In some situations though, a calendar year may be attractive; tax planning may be coordinated with a surviving spouse on a final joint income tax return.

• **The 65 day rule, IRC Section 663(b)**—For many years, the trustee of a complex trust has been able to elect to treat certain distributions made within 65 days after the close of the tax year as having been made earlier, on the last day of the previous tax year.<sup>18</sup> As a result of the enactment of the Taxpayer Relief Act of 1997, this election was extended to estates for tax years beginning after Aug. 5, 1997.<sup>19</sup> This election provides greater flexibility when implementing a tax strategy and allows the personal representative to use actual knowledge, rather than estimated projections, when timing distributions.

This election must be made no later than the due date for filing the fiduciary income tax return, including extensions,<sup>20</sup> and is effective only for the tax year

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### Stay on Top of It

Here's a checklist of IRS forms and due dates for executors, administrators and personal representatives

Form No.	Title	Due Date
SS-4	Application for Employer Identification Number	As soon as possible. The identification number is needed to collect assets, open accounts, and file returns.
56	Notice Concerning Fiduciary Relationship	As soon as all necessary information is available.*
706	United States Estate (and Generation-Skipping Transfer) Tax Return	Nine months after decedent's death.
706-CE	Certificate of Payment of Foreign Death Tax	Nine months after decedent's death. To be filed with Form 706.
706-GS(D)	Generation-Skipping Transfer Tax Return for Distributions	See form instructions.
706-GS(D-1)	Notification of Distribution from a Generation-Skipping Trust	See form instructions.
706-GS(T)	Generation-Skipping Transfer Tax Return for Terminations	See form instructions.
706-NA	United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of Nonresident Not a Citizen of the United States	Nine months after date of decedent's death.
706-QDT	United States Estate Tax Return for Qualified Domestic Trusts	April 15 of the year following any calendar year in which taxable distributions were made.
709	United States Gift (and Generation-Skipping Transfer) Tax Return	Generally, April 15 following the calendar year when the gifts were made. If the donor died during the year in which the gifts were made, return is due not later than earlier of: (1) due date (with extensions) for filing donor's federal estate tax return; or (2) April 15 of the year following the calendar year when the gifts were made. See Treas. Regs. Section 25.6075-1 for more information.
712	Life Insurance Statement	Part 1 to be filed with estate tax return.
1040	U.S. Individual Income Tax Return	Generally, April 15 of the year after death.
1041	U.S. Income Tax Return for Estates and Trusts	Fifteenth day of 4th month after end of estate's tax year.
1041-ES	Estimated Income Tax for Estates and Trusts	Generally, April 15, June 15, Sept. 15 and Jan. 15 for calendar-year filers.
4768	Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes	See form instructions.
4810	Request for Prompt Assessment Under Internal Revenue Code Section 6501 (d)	As soon as possible after filing Form 1040 or Form 1041.
4868	Application for Automatic Extension of Time to File U.S. Individual Income Tax Return	Generally, April 15 of the year after death. If return had not been filed for calendar year prior to decedent's death, and decedent dies before April 15, Form 4868 must be filed by April 15 of that year.
5495	Request for Discharge from Personal Liability Under Internal Revenue Code Section 6905	After filing the returns listed on this form.
7004	Application for Automatic Extension of Time to File Certain Business Income Tax, Information and Other Returns	On or before the due date of the applicable tax return. For Forms 1041 that are due to be filed after Dec. 31, 2008, the automatic extension period has been reduced from 6 months to 5 months.
8855	Election to Treat a Qualified Revocable Trust as Part of an Estate	Fifteenth day of 4th month after end of estate's tax year.

**Note:** This appendix was adapted from Table A, IRS Publication 559, Survivors, Executors and Administrators—for use in preparing 2007 returns.

\* A personal representative should report the termination of the estate, in writing, to the Internal Revenue Service. Form 56 may be used for this purpose.

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for which it is made. Because this election may impact the amount of distributable net income (DNI) being distributed out to the residuary beneficiaries, discuss the tax ramifications with those beneficiaries before making it.

- **Treatment of property distributed in-kind, IRC Section 643(e)**—The distribution of appreciated (or depreciated) property can result in a gain (or loss) to an estate or trust only if an election is made to recognize that gain (or loss).<sup>21</sup> IRC Section 643(e) governs all non-cash distributions. A primary benefit of utilizing this election is it offsets an estate's excess capital losses in a given tax year.

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Here's a benefit: treating a QRT as part of the estate allows the trust to a charitable deduction for amounts permanently set aside for charitable purposes.

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If this election is made, the gain or loss will be recognized by the estate as if the property had been sold to the beneficiary at the property's fair market value (FMV).<sup>22</sup> Consequently, the beneficiary's basis in that property will be the property's FMV on the date of distribution.<sup>23</sup> In addition, the estate will be allowed a distribution deduction equal to the FMV of the property distributed.<sup>24</sup>

If the election is not made, the beneficiary's basis in the property distributed will be the same as the estate's basis. Consequently, the recognition of gain or loss will be deferred until the beneficiary sells the property. In addition, the distribution will carry out DNI only to the extent of the lesser of the property's adjusted basis or its FMV (to the extent of the beneficiary's share of DNI from the estate).<sup>25</sup>

The personal representative must make the election on the income tax return for the taxable year in which the distribution is made. Once made, the election is irrevocable<sup>26</sup> and applies to all distributions made by the personal representative during the taxable year. As a planning tip, please remember that regardless of whether this election is made,

the personal representative should provide the beneficiaries with the cost basis of all property distributed in kind.

- **Treating a qualified revocable trust as part of a decedent's estate for federal income tax purposes, IRC Section 645**—For estates of individuals dying after Aug. 5, 1997, the Taxpayer Relief Act of 1997<sup>27</sup> added a new provision that grants an election to treat a qualified revocable trust (QRT), as part of the decedent's estate for federal income tax purposes.<sup>28</sup> A QRT is a trust that is treated as owned by the decedent as a result of a trust power held by him or her.<sup>29</sup> Most revocable trusts created as part of an individual's estate plan are considered QRTs.

If this IRC Section 645 election is made, the QRT secures similar income tax treatment as an estate. All of the combined income received by the estate and the trust will be reported on one fiduciary income tax return.<sup>30</sup> Two major benefits of this election are: (1) the trust will be able to report its income on a fiscal year rather than on a calendar year basis; and (2) the trust will be allowed a charitable deduction for amounts permanently set aside for charitable purposes, without the requirement that such amount be paid in order to secure a charitable deduction.<sup>31</sup>

The election, which is made on IRS Form 8855 (Election to Treat a Qualified Revocable Trust as a Part of an Estate), must be made by both the trustee of the revocable trust and the personal representative of the estate, if any.<sup>32</sup> The election must be made no later than the due date for filing the estate's income tax return for its first year, including extensions.<sup>33</sup> Once made, the election is irrevocable.<sup>34</sup>

### U.S. Estate Tax Return

The Economic Growth and Tax Relief Reconciliation Act of 2003<sup>35</sup> prescribed new minimum values for individual estates for which a federal estate tax return must be filed. This minimum value, also referred to as the "applicable exclusion amount", is comprised of the following: (1) the gross value of all assets owned by the decedent at death; (2) all adjusted taxable gifts made by the decedent after Dec. 31, 1976; and (3) the amount of the specific exemption used by the decedent for gifts made between Sept. 8, 1976 and Dec. 31, 1976.<sup>36</sup> In 2007 and 2008, the applicable exclusion amount was \$2 million. In 2009, this sum

increased to \$3.5 million.<sup>37</sup> The estate tax return must be filed within nine months after the decedent's death,<sup>38</sup> whether the decedent was a U.S. citizen, resident or non-resident, or a resident alien.<sup>39</sup>

The personal representative of the estate is charged with the duty to file the estate tax return. If there is more than one personal representative, all are jointly responsible for the return, but it is sufficient for only one of them to sign it.<sup>40</sup> Nonetheless, since the preparation of the estate tax return is such a critical responsibility, prudence would dictate that all of the personal representatives carefully review and sign this return.

• **Extension of time to file U. S. estate tax return** – IRC Section 6081(a)—For estate tax returns due after July 25, 2001, a personal representative is allowed an automatic six-month extension of time to file Form 706 (Federal Estate Tax Return). The application is made on IRS Form 4768 (Application for Extension of Time to File Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes). An automatic extension will be allowed if the application: (1) is filed on or before the date prescribed in IRC Section 6075(a) for filing the return; (2) is filed with the appropriate office designated in the application's instructions; and (3) includes an estimate of the full amount of estate tax and generation-skipping transfer (GST) tax due.<sup>41</sup> Such an extension also may be granted to an estate that did not request an automatic extension of time to file the estate tax return, but good cause must be shown for not having requested the automatic extension.<sup>42</sup> An extension of time to file the return will not operate as an extension of time to pay the estate tax.<sup>43</sup>

Serious consideration should be given to securing an automatic six-month extension of time to file the estate tax return when the decedent's assets pass into a qualified terminable interest property (QTIP) trust. For example, if the surviving spouse becomes critically ill or dies during this extension period, the six-month window will provide additional time for the personal representative to fine-tune the QTIP election. By making a partial QTIP election, or no QTIP election at all, the personal representative can reduce the combined estate taxes of the decedent and his or her surviving spouse.

• **Deferral of payment of estate tax, IRC Section 6161**— In certain instances, a district director or director of a regional IRS service center may extend the time for payment of the estate tax for a reasonable period not to exceed 12 months from the date the payment is due.<sup>44</sup> If reasonable cause exists, the district director is authorized to grant an extension of time to pay for a period not to exceed 10 years from the due date for the payment of any part of the estate tax.<sup>45</sup> The application, made on IRS Form 4768, generally won't be considered if submitted after the estate tax is due.<sup>46</sup>

The granting of this application does not relieve the personal representative from the duty to file a timely return.<sup>47</sup> It also doesn't relieve the estate from liability to pay interest on the tax deferred during the extension period.<sup>48</sup> The interest paid, which is deductible for federal estate tax purposes,<sup>49</sup> is adjusted quarterly, pursuant to IRC Section 6621. For the calendar quarter beginning Jan. 1, 2009, the Section 6621<sup>50</sup> interest rate is 5 percent.<sup>51</sup>

• **Alternate valuation election, IRC Section 2032**— The alternate valuation date (AVD) is either the date six months after the date of death or, if the property is disposed of within that six-month period, the property's AVD is the date on which it was distributed, sold or otherwise disposed of.<sup>52</sup>

The election is available only when the values of the gross estate and the estate tax (after allowable credits) are reduced.<sup>53</sup> Consequently, this election is not available if a federal estate tax return is not required to be filed or if there is no estate tax due.

In the current fluctuating markets, this election has become an increasingly valuable tool. But caution should be used in the funding of continuing trusts within six months of the date of death, as the funding date would fix the valuation date of the securities being distributed for estate tax purposes. For instance, in a descending market, if the FMV of the securities decreases, it may be wiser to fund the trusts later than six months after the decedent's death when the value of the assets being used to fund the trusts would be fixed at a presumably lower value for estate tax purposes and the estate would receive the benefit of a decrease in estate taxes.

• **QTIP election, IRC Section 2056(b)(7)**—For estates of individuals dying after Dec. 31, 1981, a personal representative is granted an election to qualify a fractional portion or all of the assets held in a QTIP trust for the estate tax marital deduction.<sup>54</sup> A QTIP trust is a trust created for the benefit of the surviving spouse with the following conditions:

- (1) the property must pass from the decedent;
- (2) the surviving spouse must receive all income from the property for life, payable at least annually or at more frequent intervals; and
- (3) no person has the power to appoint the property to any person other than the surviving spouse.<sup>55</sup>

The decedent may, however, designate the recipients of the remainder interest at the surviving spouse's death.

The amount of the deduction is based on the underlying value of the assets over which the election is made and not the present value of the spouse's income interest. The election is made by listing the QTIP property on Schedule M of the estate tax return and deducting its value. A partial election is permitted, but must be of a fractional share of the property so that the elective portion will reflect its proportionate share of increases or decreases for purposes of IRC Section 2044 at the surviving spouse's death.<sup>56</sup> The FMV of the assets over which the election was made will be includible in the surviving spouse's estate for estate tax purposes.<sup>57</sup> Once made, the election is irrevocable.<sup>58</sup> But an election may be revoked or modified on a subsequent return filed on or before the due date of the return, including extensions actually granted.<sup>59</sup>

Making a QTIP election doesn't eliminate the obligation to pay estate taxes, but can defer the payment of taxes on those assets until the surviving spouse dies. The personal representative may be able to eliminate the payment of federal estate taxes at the surviving spouse's later death because of the increase in the applicable exclusion amount to \$3.5 million in 2009 and the possibility of that sum being increased or adjusted for inflation after 2009.

Remember, if you practice in a state that has decoupled, this strategy may generate significant state estate tax liability at the surviving spouse's death.

A few of the many factors to consider when making this election include: (1) the surviving spouse's life expectancy; (2) the value of the other assets qualifying for the marital deduction; and (3) to the extent the election is not made, the surviving spouse's access to the income from the assets that would have otherwise been used for the payment of estate taxes.

• **Other elections**—Other elections available on the federal estate tax return include:

- (1) the election to deduct qualified domestic trust (QDOT) property for a non-citizen spouse, pursuant to IRC Section 2056A;
- (2) the election to defer estate taxes on closely held business interests, pursuant to IRC Section 6166;
- (3) the election to postpone payment of estate taxes attributable to reversionary or remainder interests, pursuant to IRC Section 6163;
- (4) the election regarding special use valuation, pursuant to IRC Section 2032A;
- (5) the election concerning administration expenses that may be deducted either on the estate tax return or the fiduciary income tax return;<sup>60</sup>
- (6) the "reverse QTIP" election, pursuant to IRC Section 2652(a)(3);
- (7) the election out of QTIP treatment of joint and survivor annuities that are included in the gross estate, pursuant to IRC Section 2056(b)(7)(C)(ii); and
- (8) the election concerning the allocation of the decedent's unused GST tax exemption allowable under IRC Section 2631(a), on Schedule R of the federal estate tax return.

Of course, the elections I've summarized are not an exhaustive list of those that are available. I'm merely providing an overview of the more common elections and time limitations that arise during the course of an estate's administration and to provide guidance when making decisions concerning those elections. Often, there is no right or wrong answer. Rather, we must recognize the alternatives and make rational decisions. **TE**

### Endnotes

1. Treasury Regulations Section 1.6072-1(b).
2. Internal Revenue Code Section 6012(b)(1).
3. IRC Section 6103(e).
4. See General Instructions for Internal Revenue Service Form 4506.
5. Treas. Regs. Section 1.6081-4(b).
6. Treas. Regs. Section 1.6081-4(c).
7. IRC Section 6013(a)(2).
8. IRC Section 6013(a)(1).
9. Treas. Regs. Section 1.6013-1(d)(1).
10. IRC Section 6013(d)(3).
11. IRC Section 454(a); Revenue Ruling 68-145, 1968-1 C.B. 203.
12. IRC Section 6012(a)(3).
13. IRC Section 6012(a)(5).
14. IRC Section 1; See also Revenue Procedure 2008-66, 2008-45 I.R.B. 1107, Section 3, Tax Rate Tables for taxable years beginning in 2009.
15. IRC Section 661.
16. Treas. Regs. Section 1.6072-1(a).
17. Treas. Regs. Section 1.441-1(b)(4).
18. IRC Section 663(b).
19. Public Law Number 105-34, 111 Stat. 788.
20. Treas. Regs. Section 1.663(b)-2(a)(1).
21. IRC Section 643(e)(3).
22. IRC Section 643(e)(3)(A)(ii).
23. IRC Section 643(e)(1).
24. IRC Section 643(e)(3)(A)(iii).
25. IRC Section 643(e)(2).
26. IRC Section 643(e)(3)(B).
27. Pub. L. No. 105-34, 111 Stat. 788.
28. IRC Section 645.
29. IRC Section 645(b)(1).
30. Regardless of whether there is a personal representative for the estate and regardless of whether an IRC Section 645 election is made, a taxpayer identification number (TIN) must be secured for the qualified revocable trust (QRT) following the decedent's death, and the trustee must furnish the TIN to the payors of the QRT. See Treas. Regs. Section 1.645-1(d).
31. See IRC Section 642(c).
32. IRC Section 645(a).
33. IRC Section 645(c).
34. *Ibid.*
35. Pub. L. No. 107-16, 115 Stat. 38.
36. IRC Section 6018(a).
37. IRC Section 2010(c).
38. IRC Section 6075(a).
39. IRC Section 6018(a).
40. Treas. Regs. Section 20.6018-2; see also Instructions for Form 706 (Revised August 2008).
41. Treas. Regs. Section 20.6081-1(b).
42. Treas. Regs. Section 20.6081-1(c).
43. Treas. Regs. Section 20.6081-1(e).
44. IRC Section 6161(a)(1).
45. IRC Section 6161(a)(2).
46. Instructions for Form 4768 (Rev. July 2008).
47. Treas. Regs. Section 20.6161-1(c)(3).
48. Treas. Regs. Section 20.6161-1(c)(2).
49. Treas. Regs. Section 20.2053-3(a).
50. IRC Section 6621(a)(2).
51. Rev. Rul. 2008-54, 2008-52 I.R.B. 1352.
52. IRC Section 2032(a).
53. IRC Section 2032(c).
54. IRC Section 2056(b)(7)(B)(v).
55. IRC Section 2056(b)(7).
56. Treas. Regs. Section 20.2056(b)-7(b)(2).
57. IRC Section 2044.
58. IRC Section 2056(b)(7)(B)(v).
59. Treas. Regs. Section 20.2056(b)-7(b)(4)(ii).
60. IRC Sections 642(g), 2053(a)(2); Treas. Regs. Section 1.642(g)-2; see also Michael M. Mariani, "Form 1041 vs. Form 706: Where to Deduct Administration Expenses," *Trusts & Estates*, June 1984 at p. 37.

