

§ 205.50 Minimum requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.

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(f) * * *

(2) Inventories and records shall be made available for inspection and photocopying by authorized Federal, State, or local law enforcement agency officials for a period of 3 years after the date of their creation.

Dated: August 3, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Determination of Tax Liability

CFR Correction

In Title 26 of the Code of Federal Regulations, part 1 (§§ 1.641 to 1.850), revised as of April 1, 1999, page 293, in § 1.704-1 (b)(0), in the table in the first column, under "Section" the first, second, fourth and fifth lines respectively should read, 1.704-1(b)(0), 1.704-1(b)(1), 1.704-1 (b)(1)(ii) and 1.704-1(b)(1)(iii).

Also, in the second column, under "Heading" "Maintenance of capital accounts" make the following changes in the second column of the table:

1.704-1(b)(2)(d)(2) should read 1.704-1(b)(2)(iv)(d)(2)

1.704-1(b)(2)(iv)(3) should read

1.704-1(b)(2)(iv)(d)(3)

1.704-1(2)(iv)(e)(1) should read

1.704-1(b)(2)(iv)(e)(1)

1.704-1(b)(2)(e)(2) should read 1.704-1(b)(2)(iv)(e)(2)

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 20

[TD 8846]

RIN 1545-AV45

Deductions for Transfers for Public, Charitable, and Religious Uses; In General Marital Deduction; Valuation of Interest Passing to Surviving Spouse

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the effect of certain administration expenses on the valuation of property that qualifies for either the estate tax marital deduction under section 2056 of the Internal Revenue Code or the estate tax charitable deduction under section 2055. The regulations distinguish between estate transmission expenses, which reduce the value of property for marital and charitable deduction purposes, and estate management expenses, which generally do not reduce the value of property for these purposes.

EFFECTIVE DATES: These regulations are effective on December 3, 1999.

FOR FURTHER INFORMATION CONTACT:

Deborah Ryan, (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1998, the Treasury Department and the IRS published in the **Federal Register** (63 FR 69248) a notice of proposed rulemaking (REG-114663-97) relating to the effect of certain administration expenses on the valuation of property which qualifies for the estate tax marital or charitable deduction. The proposed regulations were issued in response to the decision of the Supreme Court of the United States in *Commissioner v. Estate of Hubert*, 520 U.S. 93 (1997) (1997-2 C.B. 231). Written comments responding to the notice of proposed rulemaking were received, and a public hearing was held on April 21, 1999, at which time oral testimony was presented. This Treasury decision adopts final regulations with respect to the notice of proposed rulemaking. A summary of the principal comments received and revisions made in response to those comments is provided below.

The proposed regulations set forth the substantive provisions as applied to the estate tax marital deduction in § 20.2056(b)-4(a). For the estate tax charitable deduction, the proposed regulations (under § 20.2055-1(d)(6)) merely cross-reference the rules for the marital deduction.

Several commentators suggested that the regulations under section 2055 should contain specific rules relating to the charitable deduction, rather than just a cross-reference. The Treasury and the IRS agree with this suggestion. The final regulations contain rules under § 20.2055-3 specifically addressing the effect of administration expenses on the valuation of property when all or a portion of the interests in property

qualify for the estate tax charitable deduction.

Several commentators stated that the distinction between estate transmission expenses and estate management expenses was not clearly made in the proposed regulations and requested more concrete definitions of each type of expense. In response to these comments, the final regulations characterize estate transmission expenses as those expenses that would not have been incurred except for the decedent's death. Although the amount of these expenses cannot be calculated with any degree of certainty on the date of the decedent's death, they are expenses that are incurred because of the decedent's death. Estate management expenses, on the other hand, are characterized in the final regulations as expenses that would be incurred with respect to the property even if the decedent had not died; that is, expenses incurred in investing, maintaining, and preserving the property. These are expenses that typically would have been incurred with respect to the property by the decedent before death or by the beneficiaries had they received the property on the date of death without any intervening period of administration. In order to be certain that all expenses are classified as either transmission expenses or management expenses, transmission expenses are defined to include all expenses that are not management expenses.

Three commentators stated that the different treatment accorded to estate transmission expenses and estate management expenses under the proposed regulations creates a new federal standard for allocating expenses that may be contrary to the manner in which the expenses must be charged under state law. However, the Treasury and the IRS believe that the allocation of administration expenses based on the distinction between transmission and management expenses provides the most accurate measure of the value of the property which passes to the surviving spouse or to the charity at the moment of the decedent's death for federal estate tax marital and charitable deduction purposes. Transmission expenses that are charged to the property passing to the surviving spouse or to the charity reduce the amount of that property as of the date of the decedent's death because the expenses, as well as the transfer to the surviving spouse or to charity, are a consequence of, and arise as a result of, the decedent's death. In contrast, management expenses do not generally