

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-141075-09]

RIN 1545-BJ15

**Property Transferred in Connection With the Performance of Services Under Section 83***Correction*

In proposed rule document 2012-12855 appearing on pages 31783-31786 in the issue of Wednesday, May 30, 2012 make the following correction:

On page 31785, in the second column, in the fifth full paragraph, the authority citation "26 U.S.C. 7805." should read "26 U.S.C. 7805 \* \* \*".

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Parts 20 and 25**

[REG-141832-11]

RIN 1545-BK74

**Portability of a Deceased Spousal Unused Exclusion Amount**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance on the estate and gift tax applicable exclusion amount, in general, as well as on the applicable requirements for electing portability of a deceased spousal unused exclusion (DSUE) amount to the surviving spouse and on the applicable rules for the surviving spouse's use of this DSUE amount. The text of the temporary regulations also serves as the text of the proposed regulations set forth in this notice of proposed rulemaking. This document also provides a notice of public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by September 17, 2012. Outlines of topics to be discussed at the public hearing scheduled for October 18, 2012, at 10 a.m., must be received by September 27, 2012.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG-141832-11), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-141832-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC; or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS-REG-141832-11). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Karlene Lesho at (202) 622-3090; concerning the submission of comments, the hearing, or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor at (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has been approved by the Office of Management and Budget, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), under Form 706, "United States Estate (and Generation-Skipping Transfer) Tax Return," and assigned control number 1545-0015.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by August 17, 2012. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in proposed §§ 20.2010-2(a), 20.2010-2(a)(1), 20.2010-2(a)(3)(i), 20.2010-2(a)(7)(ii)(B), and 20.2010-2(b). The information in §§ 20.2010-2(a), 20.2010-2(a)(1), and 20.2010-2(b) as it affects estates not otherwise required to file an estate tax return under section 6018(a) is necessary in order for an executor of a decedent's estate to elect portability of a DSUE amount to the surviving spouse. The information in § 20.2010-2(a)(3)(i) is necessary in order for an executor of a decedent's estate to signify that the estate is not electing portability of a DSUE amount to the surviving spouse. The information in § 20.2010-2(a)(7)(ii)(B) is necessary in order to evaluate whether an estate qualifies for a special rule relating to applicable estate tax return requirements. The collection of information is voluntary to obtain a benefit. The likely respondents are executors of estates of decedents having a date of death in 2011 or 2012 or any subsequent period in which portability of a DSUE amount is in effect.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Background**

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** make additions to the Estate Tax Regulations (26 CFR part 20) under sections 2001 and 2010 of the Internal Revenue Code (Code) and Gift Tax Regulations (26 CFR part 25) under section 2505 of the Code. The temporary regulations provide guidance on the estate and gift tax applicable credit amount under sections 2010 and 2505 of the Code. In addition, the temporary regulations provide guidance on the portability of a deceased spousal unused exclusion (DSUE) amount under section 2010(c) of the Code, including the applicable requirements for electing portability of a DSUE amount to the surviving spouse,