

Rev. Rul. 85-75

Section 6659. -- Addition to Tax in the Case of Valuation Overstatements for Purposes of the Income Tax

June 10, 1985

[*1]

Penalties; valuation overstatement; basis of property acquired from a decedent. The penalty for overvaluation under section 6659 of the Code may apply when a beneficiary of an estate adopts an overstated amount shown on an estate tax return as the beneficiary's adjusted basis under section 1014.

ISSUE

May the addition to tax under section 6659 of the Internal Revenue Code apply to an income tax return if a beneficiary of an estate adopts an overstated amount shown on an estate tax return as the beneficiary's adjusted basis under section 1014?

FACTS

H and W were married at the time of W's death on December 31, 1982. W's will left all property to H. Included in the property was a building with a fair market value of 2,000x dollars. The executor filed Form 706, United States Estate Tax Return, valuing the property at 3,500x dollars. Because the entire estate qualified for the marital deduction under section 2056 of the Code, no estate tax was due.

H filed an income tax return for 1983 claiming an Accelerated Cost Recovery System deduction under section 168 of the Code for the building in question, using a basis under section 1014 of 3,500 [*2] x dollars. The Internal Revenue Service examined H's 1983 income tax return and determined that the value of the building at the time of W's death was 2,000x dollars. This resulted in an underpayment of \$1,000.

LAW AND ANALYSIS

Section 6659(a) of the Code imposes an addition to tax if an individual or closely held corporation or a personal service corporation has an underpayment of income tax attributable to a valuation overstatement.

Section 6659(c) of the Code provides that there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return is 150 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis.

Under section 6659(d) of the Code, the addition to tax is limited to situations in which there is an underpayment attributable to valuation overstatements of at least \$1,000.

Section 6659(e) of the Code provides that the Service may waive all or part of the addition to tax on a showing by the taxpayer that there was a reasonable basis for the valuation or adjusted basis claimed on the return and that the claim was made in good faith.

Section 1014 of the [*3] Code generally provides that the basis of property in the hands of a person to whom the property passed from a decedent shall be its fair market value at the date of the decedent's death.

The underpayment of H's income tax for 1983 was attributable to a valuation overstatement of 150 percent or more and was at least \$1,000. Accordingly, the addition to tax applies, if not waived by the Service. The fact that the adjusted basis of the building on H's income tax return is the same as the value on W's estate tax return does not of itself show the H had a reasonable basis to claim the valuation.

HOLDING

The addition to tax under section 6659 of the Code applies to an income tax return, absent a waiver by the Service, if a taxpayer adopts an overstated amount shown on an estate tax return as the taxpayer's adjusted basis under section 1014.