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## Tax Valuation E-Flash

### Technical Advice Memorandum 200247001 Released November 22, 2002

The IRS National Office has concluded that Individual Retirement Accounts owned by a decedent are not subject to a valuation discount for taxes payable by a beneficiary upon receipt of distributions nor to a valuation discount for lack of marketability.

The estate engaged an appraisal firm to determine the fair market value of Individual Retirement Accounts (IRAs) owned by the decedent at his death. The appraisal firm determined that the fair market value of these accounts should be discounted from net asset value. These discounts were based on the potential income tax payable by the beneficiaries on IRA distributions, delays that might occur between the IRA custodian's receipt of a request for distribution and actual payment of distributions, and prohibitions on the transfer or assignment of the accounts prior to distribution to the beneficiary.

The estate cited *Eisenberg v. Commissioner*, 155 F.3d 50 (2d Cir. 1998), which allowed a discount for trapped-in gains in a C corporation. The IRS noted that, in *Eisenberg*, a buyer of C corporation stock would not be able to affect the corporation's tax basis in the underlying assets. In an IRA (assuming it could be sold) the purchaser would be able to assume a cost basis equal to the amount paid. The IRS also concluded that, for valuation purposes, an IRA, unlike a corporation, is not a separate entity. Additionally, the IRS pointed out that the §691(c) deduction for the original IRA contribution alleviated the adverse impacts of the potential income tax.

The TAM cited *Estate of Robinson*, 69 T.C. 222 (1977) in its analysis. *Robinson* dealt with an installment note. The IRS noted that because the buyer's basis in the note would be increased to the purchase price, there would be no income tax on the buyer's subsequent receipt of the installments. The fact that a willing seller might incur income tax on the sale of the note would not impact the sales price. The TAM suggested that *Robinson* was the proper comparison for the IRA valuation, not *Eisenberg*.

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