

Section 6103.—Confidentiality and Disclosure of Returns and Return Information

Disclosure of returns and return information. Rev. Rul. 54-379 concludes that heirs at law, next of kin, or beneficiaries who are distributees of a person who dies intestate under state law have a “ma-

terial interest” to receive the decedent’s return information. The statute does not clearly address the application of the “material interest” standard in the context of a taxpayer who dies intestate. Rev. Rul. 54-379 superseded.

Rev. Rul. 2004-68

ISSUE

Whether the heir at law or next of kin of a decedent who dies intestate may inspect the income tax return filed by or on behalf of the decedent for the year prior to death.

FACTS

The decedent, a resident of State X, died intestate (*i.e.*, without a valid will). The decedent had two brothers and two sisters, and no other pre-deceased siblings. Under applicable state law, these four siblings are the decedent’s sole heirs at law and next of kin, and each is entitled to one-fourth of decedent’s estate. The four

siblings want to inspect the decedent's income tax return for the year prior to the decedent's death in order to identify and locate assets owned by the decedent at the time of the decedent's death.

LAW AND ANALYSIS

Under I.R.C. § 6103(e)(3)(B), the return of a decedent shall, upon written request, be open to inspection by or disclosure to any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Service finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

Generally, the Service has interpreted the term "material interest" as an important interest that is financial in nature. In this case involving a taxpayer dying intestate, the income tax return filed by or on behalf of the decedent for the year prior to death may disclose assets or information materially affecting the distribution to each distributee of the estate. Where the heir at law or next of kin is a distributee, under applicable state law, of the estate of a decedent who dies intestate, such person shall be considered as having a "material interest" which will be affected by information contained in the income tax return filed by or on behalf of the decedent for the year prior to death, within the meaning of section 6103(e)(3)(B).

In addition to the written request for inspection or disclosure, the person requesting access under section 6103(e)(3)(B) must provide the Service with (i) proof of the date of death, place of death, and state of decedent's residence, to help determine which state law is applicable and (ii) proof of his or her relationship to the decedent, including, but not limited to, a copy of a birth certificate, baptismal certificate, school record, or insurance designation. The person requesting access also must provide the Service with a written statement, along with supporting documents, to demonstrate that he or she has a material interest that will be affected by information contained in each requested return. Evidence sufficient to establish the nature and extent of the requester's material interest may include, but is not limited to, a copy of the petition for probate or other comparable pleading required to institute

the proceeding for the administration of the decedent's estate. The Service may require additional information or documentation to determine the nature and extent of the requester's material interest in the decedent's return. In this case, upon receipt of satisfactory evidence of (i) the relationship to the decedent, (ii) the date of death, the place of death, and the state of decedent's residence, and (iii) the decedent's intestacy, the Service shall disclose to any of the decedent's siblings the income tax return filed by or on behalf of the decedent for the year prior to decedent's death.

HOLDING

The income tax return of an intestate decedent for the calendar year prior to decedent's death shall be open to inspection or disclosure to any heir at law or next of kin who is a distributee, under applicable state law, of the probate estate of the decedent, and the existence of a material interest of such a person that is affected by information contained in that return will be presumed. The Secretary may disclose any other income tax returns of the decedent, provided that such heir at law or next of kin establishes to the satisfaction of the Secretary that he or she has a material interest which will be affected by information contained in each requested return. If, over time, the Secretary deems it prudent to amend the material interest access procedures, individuals who request access to the returns of an intestate decedent may be required to meet additional requirements.

EFFECT ON OTHER REVENUE RULINGS

This ruling supersedes Revenue Ruling 54-379.

PROSPECTIVE APPLICATION

N/A

DRAFTING INFORMATION

The principal author of this revenue ruling is Charles B. Christopher of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue ruling, you may contact Charles B. Christopher at (202) 622-4580 (not a toll-free call).
