Announcement 2009-57

Guidance on Gifts and Bequests From Certain Expatriates

The Heroes Earnings Assistance and Relief Tax Act of 2008, Pub. L. 110-245, 122 Stat. 1624 (the "Act"), enacted on June 17, 2008, amended Subtitle B of the Internal Revenue Code (relating to estate and gift taxes) by inserting a new Chapter 15 and adding section 2801.

Section 2801 imposes a tax on each U.S. citizen or resident who receives a "covered gift or bequest" on or after June 17, 2008, from a "covered expatriate" whose expatriation date was on or after that same date. The term "covered expatriate" is described in section 877A(g)(1), which was also added to the Code by the Act. A "covered gift" is defined as any property acquired directly or indirectly from an individual who, at the time of such acquisition, is a covered expatriate. A "covered bequest" is defined as any property acquired directly or indirectly by reason of the death of an individual who, immediately before death, was a covered expatriate.

The Internal Revenue Service intends to issue guidance under section 2801, as well as a new Form 708 on which to report the receipt of gifts and bequests subject to section 2801. The due date for reporting, and for paying any tax imposed on, the receipt of such gifts or bequests has not yet been determined. The due date will be contained in the guidance, and the guidance will provide a reasonable period of time between the date of issuance of the guidance and the date prescribed for the filing of the return and the payment of the tax.