Sections 303 and 6166 in Estate Tax Planning

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Presented before the San Angelo,
Texas, Estate Council—February 1963

Sections 303 and 6166 are intended to be relief sections which, under restrictive provisions, may make the payment of death taxes and funeral and administrative expenses less burdensome than they might otherwise be. Section 303 deals with the redemption of stock to pay death taxes and funeral and administrative expenses, while section 6166 deals with instalment payment of Federal estate taxes only.

Purpose of Provisions

The purpose of both sections is to allow for the payment of these obligations without the necessity of breaking up closely held businesses. Section 303 had its beginning a number of years ago, when it became apparent that in a number of instances the settlement of these obligations was being accomplished through the sale of the family business, and in many instances the sales were to large competitors. Congress was alarmed at this situation because over a period of time it would tend to diminish the small independent businesses and increase the concentration of business in large companies. In order to lighten the burden further, section 6166 was enacted in the Revenue Act of 1958.

SECTION 303

First, let us take a look at section 303, which is entitled “Distributions in Redemption of Stock to Pay Death Taxes.” This is a misnomer in at least two respects, i.e.,

1) The distributions do not actually have to be used to pay “death taxes”;

2) The maximum amount allowable as a distribution under the protective provisions of the section includes not only the amount of the estate, inheritance, legacy, and succession taxes, including any interest thereon, but also the amount of funeral and administration expenses allowable as deductions in determining the value of the taxable estate. This is true even though an election is made to deduct administrative expenses in computing