

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PT&E:B04

PLR-120712-24

Date:

May 12, 2025

In Re:

Legend

Husband =

Wife =

Trust A =

Trust B =

Trust C =

Accounting Firm =

Law Firm =

Year 1 =

Year 2 =

Year 3 =

Dear _____ :

This letter responds to your authorized representative's letter dated October 14, 2024, and subsequent correspondence, requesting an extension of time under § 2642(g) of the Internal Revenue Code (Code) and § 26.2642-7 of the Generation-Skipping Transfer (GST) Tax Regulations to allocate GST exemption to transfers to trusts.

The facts and representations submitted are summarized as follows:

In Year 1, a year before 2001, Husband and Wife established Trusts A, B, and C, one for each of their three sons and their descendants. Each trust instrument provides that income shall be distributed to the son for whom the trust was established for such son's lifetime. The trustee may also distribute principal to the son for his health, education, maintenance, and support, as the trustee deems necessary or advisable.

Each son has a testamentary power to appoint the trust principal remaining at his death to the descendants of Husband and Wife, excluding the son who holds the power, his estate, his creditors, and the creditors of his estate. If the power of appointment is not exercised, a deceased son's share is distributed to his issue, per stirpes. If a deceased son is not survived by issue, then his share is distributed to the issue of Husband and Wife, per stirpes. Any share distributable to a son of Husband and Wife is held in further trust under the same terms as the deceased son's share.

Husband made taxable gifts to Trusts A, B, and C in Year 1. Husband and Wife elected to treat the Year 1 gifts as made one-half by each of them. Husband and Wife relied on Accounting Firm to prepare and file their Forms 709 (United States Gift (and Generation-Skipping Transfer) Tax Returns) for Year 1. Accounting Firm did not advise Husband and Wife regarding the allocation of GST exemption to the Year 1 gifts. Husband and Wife timely filed their Forms 709 for Year 1 and did not allocate GST exemption to the gifts made in that year to Trusts A, B, and C.

Wife died in Year 2, and Husband died in Year 3. The executors of Husband's estate retained Law Firm to assist with the administration of the estate. Law Firm discovered the failure to allocate Husband's and Wife's GST exemption to the Year 1 gifts while reviewing their Forms 709 for Year 1 during the preparation of the Form 706 (United States Estate (and Generation-Skipping Transfer) Tax Return) for Husband's estate. Law Firm notified the executors of Wife's estate of the failure to allocate GST exemption to the Year 1 gifts.

RULING REQUESTED

You have requested an extension of time to allocate Wife's GST exemption to the gifts made to Trusts A, B, and C in Year 1.

LAW AND ANALYSIS

Section 2601 imposes a tax on every generation-skipping transfer. A generation-skipping transfer is defined under § 2611(a) as, (1) a taxable distribution, (2) a taxable termination, and (3) a direct skip.

Section 2602 provides that the amount of the tax imposed by § 2601 is the taxable amount multiplied by the applicable rate.

Section 2631(a) provides that, for purposes of determining the inclusion ratio, every individual shall be allowed a GST exemption amount which may be allocated by such individual (or his executor) to any property with respect to which such individual is the transferor.

Section 2631(b) provides that any allocation under § 2631(a), once made, shall be irrevocable.

Section 2631(c) provides that, for purposes of § 2631(a), the GST exemption amount for any calendar year shall be equal to the basic exclusion amount under § 2010(c) for such calendar year.

Section 2632(a)(1) provides that an individual's GST exemption may be allocated at any time on or before the date prescribed for filing the estate tax return for such individual's estate (determined with regard to extensions), regardless of whether such return is required to be filed.

Section 2632(a)(2) provides that allocations are to be made as prescribed by forms or regulations issued by the Secretary.

Section 2642(b)(1)(A) provides that, except as provided in § 2642(f), if the allocation of the GST exemption to any transfers of property is made on a gift tax return filed on or before the date prescribed by § 6075(b) for such transfer or is deemed to be made under § 2632(b)(1) or (c)(1) the value of such property for purposes of § 2642(a) shall be its value as finally determined for purposes of chapter 12 (within the meaning of § 2001(f)(2)), or, in the case of an allocation deemed to have been made at the close of an estate tax inclusion period, its value at the time of the close of the estate tax inclusion period.

Section 2642(g)(1)(A) provides that the Secretary shall by regulation prescribe such circumstances and procedures under which extensions of time will be granted to make an allocation of GST exemption described in § 2642(b)(1) or (2), and an election under § 2632(b)(3) or (c)(5). Such regulations shall include procedures for requesting comparable relief with respect to transfers made before the date of the enactment of § 2642(g).

Section 2642(g)(1)(B) provides that in determining whether to grant relief under this paragraph, the Secretary shall take into account all relevant circumstances, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Secretary deems relevant. For purposes of determining whether to grant relief under this paragraph, the time for making the allocation (or election) shall be treated as if not expressly prescribed by statute.

Section 26.2642-7 of the Generation-Skipping Transfer Tax Regulations sets forth the procedures for requesting an extension of time to make an allocation of GST exemption

described in § 2642(b)(1) or (2), and an election under § 2632(b)(3) or (c)(5), and the standards used to determine whether relief may be granted.

Section 26.2642-7(d)(1) provides that requests for relief will be granted when and to the extent that the transferor or the executor of the transferor's estate provides evidence establishing to the satisfaction of the IRS that the transferor or the executor of the transferor's estate acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the government.

Section 26.2642-7(d)(2) provides a nonexclusive list of factors that will be considered in determining whether the transferor or the executor of the transferor's estate acted reasonably and in good faith for purposes of § 26.2642-7, including reasonable reliance by the transferor or the executor of the transferor's estate on the advice of a qualified tax professional.

Based on the facts submitted and the representations made, we conclude that the requirements of § 26.2642-7 have been satisfied. The executor of Wife's estate is granted an extension of time of 120 days from the date of this letter to allocate Wife's GST exemption to the gifts made in Year 1 to Trusts A, B, and C.

The allocation of GST exemption should be made on an amended Form 709 for Year 1. The Form 709 should be filed with the Internal Revenue Service at the following address: Internal Revenue Service Center, ATTN: E&G, Stop 824G, 7940 Kentucky Drive, Florence, KY 41042-2915.

Except as expressly provided herein, we neither express nor imply any opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

/ s /

By:

Daniel J. Gespass
Senior Technician Reviewer, Branch 4
Office of the Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure

Copy for § 6110 purposes

cc:

cc:

cc: