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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PT&E:04

PLR-105409-25

Date:

August 22, 2025

RE:

LEGEND

Date 1 =
Donor =
Trust =

Individual Trustees =

Limited Trustee =
Charity 1 =
Charity 2 =
Charity 3 =
Child 1 =
Child 2 =
Child 3 =
Child 3 Spouse =
Child 4 =
Grandchild 1 =
Grandchild 1 Spouse =
Grandchild 2 =
Grandchild 3 =
Grandchild 4 =
Grandchild 4 Spouse =
Great-Grandchild 1 =
Great-Grandchild 2 =
Grandchild 5 =

Grandchild 5 Spouse	=
Grandchild 6	=
Grandchild 7	=
Grandchild 8	=
Date 2	=
State 1	=
State 2	=
State 2 Court	=
State 1 Statute 1	=
State 1 Statute 2	=
State 1 Statute 3	=

Dear _____ :

This letter responds to your authorized representative's letter of February 25, 2025, requesting rulings regarding the estate, gift, and generation-skipping transfer (GST) tax consequences of the proposed creation and funding of Sub Trusts.

FACTS

The facts and representations submitted are summarized as follows:

On Date 1, a date prior to September 25, 1985, Donor established an irrevocable trust, Trust, for the benefit of certain Individual Beneficiaries and Charitable Beneficiaries, described below. The current Trustees of Trust are Individual Trustees and Limited Trustee. Trust is governed by the laws of State 1 and administered under the laws of State 2.

Section 3.03 of Trust provides that payments of income or principal may be made to any one or more members of the lowest numbered of the classes of Individual Beneficiaries described in Section 3.03(1) that has one or more representative members then living and/or to any one or more members of the class of Charitable Beneficiaries described in Section 3.03(2).

Section 3.03(1) of Trust provides that the primary potential Individual Beneficiaries consist of Class One, which includes the issue of Donor who are then living, all spouses of the then living issue of Donor and all spouses of the then deceased issue of Donor. Section 3.03(2) of Trust describes the Charitable Beneficiaries as Charity 1, Charity 2, and Charity 3, and organizations described in § 501(c)(3) of the Internal Revenue Code that existed at the execution of Trust. In the event that there are no living members of Class One, Section 3.03(1) identifies the membership of several other classes of beneficiaries (Class Two through Class Five), consisting of Donor's immediate and extended family and certain other individuals who, in addition to the Charitable Beneficiaries, would then be eligible to receive distributions from Trust.

Section 3.03(4) of Trust grants the trustees absolute discretionary powers to distribute principal and income among the Individual Beneficiaries and Charitable Beneficiaries on an equal or unequal basis, and to allocate assets on a pro rata or non-pro rata basis.

Section 4.01 of Trust provides that the trust, if not sooner terminated pursuant to complete distribution, shall terminate twenty-one (21) years after the death of the survivor of all persons described as potential Individual Beneficiaries in Classes One to Three, as such persons would be determined on Date 1.

Section 4.04 of Trust provides that all payments of income or principal determined by the trustees may be made, in the discretion of the trustees, by expending the same for the beneficiary's benefit.

Under Section 4.05 of Trust, all determinations to make, apply, withhold or accumulate any discretionary payments or distributions of income and principal from any trust shall be made only by the trustees then acting who are not contributors to the trust or "related or subordinate parties" as to Donor or any other contributor to the trust within the meaning of § 672(c), and who are not within the definition of Individual Beneficiaries and Charitable Beneficiaries eligible at the time of the determination.

There are presently sixteen living members of Class One. Donor has four children: Child 1, Child 2, Child 3, and Child 4. Child 1 is unmarried and has three children, Grandchild 1, Grandchild 2, and Grandchild 3. Grandchild 1 is married to Grandchild 1 Spouse and has no issue. Grandchild 2 and Grandchild 3 are not married and have no issue. Child 2 is deceased, and at the time of Child 2's death, Child 2 was unmarried and had no issue. Child 3 is married to Child 3 Spouse and has three children, Grandchild 4, Grandchild 5, and Grandchild 6. Grandchild 4 is married to Grandchild 4 Spouse and has two children, Great-Grandchild 1 and Great-Grandchild 2. Grandchild 5 is married to Grandchild 5 Spouse and has no issue. Child 4 is deceased and at the time of Child 4's death, Child 4 was unmarried and had two children, Grandchild 7 and Grandchild 8. Grandchild 7 and Grandchild 8 are not married and have no issue.

The Trustees of Trust have determined that it is advisable to establish one or more Sub Trusts for the benefit of certain Class One Individual Beneficiaries, namely, for the children and grandchildren of Donor and their respective family lines. The creation of the Sub Trusts will allow the Individual Trustees to make use of the flexibility provided for in the Trust Agreement to distribute Trust income for the benefit of certain Individual Beneficiaries. It is represented that this flexibility will help the Individual Trustees make distribution decisions in a way that manages the individualized needs of the Individual Beneficiaries and their respective family lines.

The Trustees petitioned State 2 Court seeking confirmation of certain powers granted to the Trustees under the terms of Trust related to the creation of the Sub Trusts. It is represented that the dispositive provisions of the proposed Sub Trust Agreements are

the same in all material respects as the dispositive provisions of Trust, except that each Sub Trust will be for the benefit of a Class One Individual's (primary beneficiary) family line. Each primary beneficiary's family line will be limited solely to the members of that family line living from time to time. The primary beneficiary's family line consists of (1) the primary beneficiary, (2) the spouse of the primary beneficiary, (3) the issue of the primary beneficiary, (4) the respective spouses of the living issue of the primary beneficiary, and (5) the respective spouses of the deceased issue of the primary beneficiary. If at any time there is no living member of the primary beneficiary's family line, the remaining trust assets will be allocated and distributed equally to and among the then living issue of Donor who was the primary beneficiary's parent, or, if no issue of such parent survives the last living member of such family line, to the then living issue of Donor who was the primary beneficiary's most immediate ancestor (in Sub Trusts). If none of the foregoing is applicable, the remaining trust assets will be held in a trust for all then living issue of Donor, spouses of living issue of Donor, and spouses of deceased issue of Donor, with dispositive terms that are the same in all material respects as the dispositive provisions of Trust. Each Sub Trust will continue to permit distributions to be made to Charitable Beneficiaries.

On Date 2, State 2 Court issued an Order confirming: (1) The Individual Trustees have the authority to make distributions of Trust income, either outright or in trust, to or for the benefit of none, one, some, or all the living members of Class One; (2) The Trustees have the authority to establish Sub Trusts; (3) The Individual Trustees have the authority to make distributions of Trust income to the Sub Trusts; and (4) The Trustees have the authority to administer each Sub Trust upon terms substantially the same as those set forth in the Sub Trusts Agreement.

State 2 Court's approval of the creation and funding of Sub Trusts is subject to the receipt of a favorable private letter ruling from the Internal Revenue Service.

It is represented that no actual or constructive additions were made to Trust after September 25, 1985.

You have requested the following rulings:

1. After the proposed creation and funding of the Sub Trusts, Trust and each Sub Trust will be exempt from generation-skipping transfer tax.
2. After the proposed creation and funding of the Sub Trusts, no Individual Beneficiary will be treated as having made any transfer subject to gift tax.
3. After the proposed creation and funding of the Sub Trusts, no interest in Trust or any interest in any Sub Trust will be includible in the gross estate of any Individual Beneficiary for purposes of the estate tax.

LAW AND ANALYSISRuling 1

Section 2601 of the Internal Revenue Code imposes a tax on every generation-skipping transfer (GST). The term “generation-skipping transfer” is defined in § 2611 as a taxable distribution, a taxable termination, and a direct skip.

Under § 1433(a) of the Tax Reform Act of 1986 (Act) and § 26.2601-1(a) of the Generation-Skipping Transfer Tax Regulations, the GST tax is generally applicable to generation-skipping transfers made after October 22, 1986. However, under § 1433(b)(2)(A) of the Act and § 26.2601-1(b)(1)(i), the GST tax does not apply to a transfer under a trust that was irrevocable on September 25, 1985, but only to the extent that such transfer is not made out of corpus added to the trust after September 25, 1985 (or out of income attributable to corpus so added).

Section 26.2601-1(b)(4)(i) provides rules for determining when a modification, judicial construction, settlement agreement, or trustee action with respect to a trust that is exempt from the GST tax under § 26.2601-1(b) will not cause the trust to lose its exempt status. In general, unless specifically provided otherwise, the rules contained in this paragraph are applicable only for purposes of determining whether an exempt trust retains its exempt status for generation-skipping transfer tax purposes. Thus, generally, the rules do not apply in determining, for example, whether the transaction results in a gift subject to gift tax, or may cause the trust to be included in the gross estate of a beneficiary, or may result in the realization of gain for purposes of § 1001.

Section 26.2601-1(b)(4)(i)(D) provides that a modification of the governing instrument of an exempt trust (including a trustee distribution, settlement, or construction that does not satisfy § 26.2601-1(b)(4)(i)(A), (B), or (C)), by judicial reformation, or nonjudicial reformation that is valid under applicable state law, will not cause an exempt trust to be subject to the provisions of chapter 13, if the modification does not shift a beneficial interest in the trust to any beneficiary who occupies a lower generation (as defined in § 2651) than the person or persons who held the beneficial interest prior to the modification, and the modification does not extend the time for vesting of any beneficial interest in the trust beyond the period provided for in the original trust. A modification of an exempt trust will result in a shift in beneficial interest to a lower generation beneficiary if the modification can result in either an increase in the amount of a GST transfer or the creation of a new GST transfer.

Under State 1 Statute 1, a trustee may divide a trust into two or more separate trusts. The statute requires notice to the qualified beneficiaries and the division may not impair the rights of any beneficiary or adversely affect the purposes of the trust.

Under State 1 Statute 2, a trustee may petition the court for an order to construe or reform the terms of a trust.

Under State 1 Statute 3, if a distribution to a beneficiary is subject to the exercise of the trustee's discretion, whether or not the terms of a trust include a standard to guide the trustee in making distributions, then the interest is neither a property interest nor an enforceable right, but a mere expectancy.

In this case, Trust was irrevocable on September 25, 1985, and it is represented that no additions have been made since September 25, 1985. Based on the facts presented and the representations made, the proposed creation and funding of the Sub Trusts as described above, will not result in a shift of any beneficial interest in the trusts to any beneficiary who occupies a generation lower than the persons holding the beneficial interests. Further, the proposed creation and funding of the Sub Trusts will not extend the time for vesting of any beneficial interest in the Sub Trusts beyond the period provided for in Trust. Accordingly, based on the facts submitted and the representations made, we conclude that after the proposed creation and funding of the Sub Trusts, Trust and each Sub Trust will be exempt from generation-skipping transfer tax.

Ruling 2

Section 2501(a)(1) imposes a tax for each calendar year on the transfer of property by gift during such calendar year by any individual.

Section 2511(a) provides that the gift tax applies whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible.

Section 2512(a) provides that if the gift is made in property, the value thereof at the date of the gift is considered the amount of the gift.

Section 2512(b) provides that where property is transferred for less than adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration is deemed to be a gift, and is included in computing the amount of gifts made during the calendar year.

In this case, the beneficiaries of each Sub Trust will have substantially the same interests after the proposed creation and funding of the Sub Trust that they had as beneficiaries under Trust. Because the beneficial interests, rights, and expectancies of the beneficiaries are substantially the same, both before and after the proposed creation and funding of the Sub Trusts, no transfer of property will be deemed to occur as a result of the division. Accordingly, based on the facts submitted and the representations made, we conclude that after the proposed creation and funding of the Sub Trusts, no Individual Beneficiary will be treated as having made any transfer subject to gift tax.

Ruling 3

Section 2001(a) imposes a tax on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

Section 2033 provides that the value of the gross estate includes the value of all property to the extent of the interest therein of the decedent at the time of death.

Section 2035(a) provides that if (1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and (2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under § 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of the decedent's death, the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

Section 2036(a) provides that the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from, the property, or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom.

Section 2037(a) provides that the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, if (1) possession or enjoyment of the property can, through ownership of such interest, be obtained only by surviving the decedent, and (2) the decedent has retained a reversionary interest in the property, and the value of such reversionary interest immediately before the death of the decedent exceeds 5 percent of the value of such property.

Section 2038(a)(1) provides that the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, revoke, or terminate, or where the decedent relinquished any such power during the 3-year period ending on the date of the decedent's death.

Section 2041(a)(2) provides that the value of the gross estate shall include the value of all property to the extent of any property with respect to which the decedent has at the time of death a general power of appointment created after October 21, 1942, or with respect to which the decedent has at any time exercised or released such a power of appointment by a disposition that is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under §§ 2035 to 2038, inclusive.

In order for §§ 2036 through 2038 to apply, the decedent must have made a transfer of property or any interest therein (except in the case of a bona fide sale for an adequate and full consideration in money or money's worth) under which the decedent retained an interest in, or power over, the income or corpus of the transferred property. In the present case, the beneficiaries of the Sub Trusts will have the same interests after the division that they had as beneficiaries under Trust. The distribution, management, and termination provisions of each Sub Trust will be substantially similar to the current distribution, management, and distribution provisions of Trust.

In addition, no beneficiary has any power to participate in discretionary distributions of income or principal. Discretionary distributions may only be made by trustees who are not related or subordinate to Donor. No beneficiary has a power to appoint trust assets to themselves, their estates, their creditors, or the creditors of their estates under either Trust or Sub Trusts. Accordingly, based on the facts submitted and the representations made, we conclude that after the proposed creation and funding of the Sub Trusts, no interest in Trust or any interest in any Sub Trust will be includible in the gross estate of any Individual Beneficiary for purposes of the estate tax.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Melissa C. Liquerman

Melissa C. Liquerman
Senior Counsel, Branch 4
Office of Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure:

Copy for § 6110 purposes

cc:

cc: