

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Telephone Number:

Refer Reply To:
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PLR-112074-25

Date:
April 14, 2026

In Re:

Legend

- Grantor =
- Spouse =
- Accounting Firm =
- Attorney 1 =
- Attorney 2 =
- Date 1 =
- Date 2 =
- Date 3 =
- Date 4 =
- Year 1 =
- Year 2 =
- Year 3 =
- Year 4 =
- Trust 1 =
- Trust 2 =
- Trust 3 =

Dear :

This letter responds to your authorized representative's letter dated June 6, 2025, and subsequent correspondence, requesting an extension of time under § 2642(g) of the Internal Revenue Code and § 26.2642-7 of the Generation-Skipping Transfer (GST) Tax Regulations to allocate GST exemption to transfers made to trusts.

The facts and representations submitted are as follows:

In Year 1, Grantor engaged the services of Attorney 1. Upon the advice of Attorney 1, on Date 1, Grantor created Trust 1, Trust 2, and Trust 3 for the benefit of

Grantor's children and further descendants. The dispositive terms of Trust 1, Trust 2, and Trust 3 are substantially similar. On Date 2 in Year 1, Grantor transferred property to each of the three trusts. Each trust is irrevocable and provides that while Grantor and Spouse are living, the trustees have sole discretion to pay to Grantor's descendants such income or principal necessary for the beneficiaries' maintenance, support, or education.

Upon the last to die of Grantor and Spouse, each trust is to be divided into a separate share for each surviving child of Grantor. The trustees of each trust share will have discretion to pay to that child of Grantor income or principal necessary for that child's maintenance, support, or education, and such trust share will terminate upon the death of such child. Each child has a limited testamentary power of appointment to appoint their trust share to their descendants. To the extent a child of Grantor does not exercise such limited power of appointment, the principal and income of the trust share will be distributed and paid over to Grantor's child's then surviving descendants, per stirpes, or if none, to the Grantor's other children.

Grantor and Spouse relied on Attorney 1 to prepare their Year 1 Forms 709, United States Gift (and Generation-Skipping Transfer) Tax Return, reporting the Year 1 transfers to Trust 1, Trust 2, and Trust 3. Grantor and Spouse elected under § 2513 to treat all gifts made in Year 1 as made one-half by each of them. Attorney 1 did not advise Grantor or Spouse regarding the consequences of failing to allocate GST exemption to the Year 1 transfers to each of the three trusts. As a result, Grantor and Spouse did not allocate GST exemption to the Year 1 transfers to Trust 1, Trust 2, and Trust 3.

On Date 3, in Year 2, Grantor transferred additional property to Trust 1. Grantor and Spouse relied on Attorney 1 to prepare their Forms 709 for Year 2 reporting the Year 2 transfer to Trust 1. Grantor and Spouse elected under § 2513 to treat all gifts made in Year 2 as made one-half by each of them. Attorney 1 did not advise Grantor or Spouse of the GST consequences of the Year 2 transfer to Trust 1. Attorney 1 prepared Grantor's and Spouse's respective Year 2 Forms 709, and on the returns, elected under § 2632(c)(5) to opt out of the automatic allocation of GST exemption with respect to the Year 2 transfer to Trust 1.

On Date 4, in Year 3, Grantor transferred additional property to Trust 1. Grantor and Spouse relied upon Accounting Firm to prepare their Forms 709 for Year 3 reporting the Year 3 transfer to Trust 1. Grantor and Spouse elected under § 2513 to treat all gifts made in Year 3 as made one-half by each of them. Accounting Firm prepared Grantor's and Spouse's Year 3 Forms 709 to be consistent with the Year 2 Forms 709 and thus elected under § 2632(c)(5) to opt out of the automatic allocation of GST exemption for the Year 3 transfer to Trust 1. Accounting Firm did not advise Grantor or Spouse of the GST consequences of the Year 3 transfer to Trust 1.

In Year 4, Grantor and Spouse hired Attorney 2 to review their estate planning. Attorney 2 discovered that GST exemption was not allocated to the transfers in Year 1 and that an election was made under § 2632(c)(5) to opt out of the automatic allocation of GST exemption with respect to the transfers in Year 2 and Year 3. Grantor and Spouse represent that they have sufficient GST exemption available to allocate to the Year 1, Year 2, and Year 3 transfers.

Grantor requests an extension of time pursuant to § 2642(g) and § 26.2642-7 to allocate GST exemption to the transfers made to Trust 1, Trust 2, and Trust 3 in Year 1; the transfer to Trust 1 in Year 2; and the transfer to Trust 1 in Year 3. Grantor also requests that the allocations be effective as of the date of such transfers and based on the federal gift tax value of the property transferred on such dates.

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 2513(a)(1) provides, generally, that a gift made by one spouse to any person other than the donor's spouse is considered for purposes of the gift tax as made one-half by the donor and one-half by the donor's spouse, but only if at the time of the gift each spouse is a citizen or resident of the United States.

Section 25.2513-1(b)(4) of the Gift Tax Regulations provides that the consent is effective only if both spouses signify their consent to treat all gifts made to third parties during that calendar period by both spouses while married to each other as having been made one-half by each spouse.

Section 2631(a) provides that, for purposes of determining the inclusion ratio, every individual shall be allowed a GST exemption 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 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 the manner in which allocations are to be made shall be prescribed by forms or regulations issued by the Secretary.

Section 2632(c)(1) provides that if any individual makes an indirect skip during such individual's lifetime, any unused portion of such individual's GST exemption shall be allocated to the property transferred to the extent necessary to make the inclusion ratio for such property zero. If the amount of the indirect skip exceeds such unused portion, the entire unused portion shall be allocated to the property transferred.

Section 2632(c)(3)(A) provides that for purposes of this subsection, the term "indirect skip" means any transfer of property (other than a direct skip) subject to the tax imposed by chapter 12 made to a GST trust.

Section 2632(c)(3)(B)(iv) provides that the term "GST trust" means a trust that could have a generation-skipping transfer with respect to the transferor unless the trust is a trust any portion of which would be included in the gross estate of a non-skip person (other than the transferor) if such person died immediately after the transfer. The value of transferred property shall not be considered to be includible in the gross estate of a non-skip person or subject to a right of withdrawal by reason of such person holding a right to withdraw so much of such property as does not exceed the amount referred to in § 2503(b) with respect to any transferor.

Section 2632(c)(5)(A)(i) provides that an individual may elect to have the automatic allocation rules not apply to (I) an indirect skip, or (II) any or all transfers made by such individual to a particular trust.

Section 2642(a)(1) provides that the inclusion ratio with respect to any property transferred in a generation-skipping transfer is the excess (if any) of one over the "applicable fraction." Under 2642(a)(1), the applicable fraction is defined as a fraction the numerator of which is the amount of the GST exemption allocated to the trust (or to property transferred in a direct skip), and the denominator of which is the value of the property transferred to the trust (or involved in the direct skip), reduced by the sum of any federal estate tax or state death tax actually recovered from the trust attributable to such property and any charitable deduction allowed under § 2055 or 2522 with respect to such property.

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 Internal Revenue Service 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: (i) the intent of the transferor to timely allocate GST exemption to a transfer or to timely make an election under § 2632(b)(3) or (c)(5); (ii) intervening events beyond the control of the transferor that caused the failure to allocate GST exemption to a transfer or to make an election under § 2632(b)(3) or (c)(5); (iii) lack of awareness, despite the exercise of reasonable diligence, by the transferor or the executor of the transferor's estate, taking into account the experience of the transferor or the executor of the transferor's estate and the complexity of the GST tax issue, as the cause of the failure to allocate GST exemption to a transfer or to make an election under § 2632(b)(3) or (c)(5); (iv) consistency by the transferor with regard to the allocation of the transferor's GST exemption to one or more trusts or skip persons; and (v) reasonable reliance by the transferor or the executor of the transferor's estate on the advice of a qualified tax professional.

Section 26.2642-7(d)(3) provides a nonexclusive list of factors that will be considered to determine whether the interests of the government would be prejudiced for purposes of § 26.2642-7, including: (i) an attempt to benefit from hindsight; (ii) the timing of the request for relief, including any delay by the transferor or the executor of the transferor's estate in the filing of the request for relief that was intended to deprive the Internal Revenue Service of a sufficient period of time in which to challenge any element of the transfer that is the subject of the request for relief; (iii) the occurrence

and effect of an intervening taxable termination or taxable distribution between the time for making a timely allocation of GST exemption or a timely election described in § 2632(b)(3) or (c)(5) and the time at which the request for relief was filed; and (iv) certain circumstances involving the expiration of a period of limitations on the assessment or collection of transfer taxes.

Based on the facts submitted and the representations made, we conclude that the requirements of § 26.2642-7 have been satisfied. Therefore, Grantor is granted an extension of time of 120 days from the date of this letter to allocate his available GST exemptions to the Year 1 transfers to Trust 1, Trust 2, and Trust 3; the Year 2 transfer to Trust 1; and the Year 3 transfer to Trust 1. The allocations will be effective as of the date of the transfers and will be based on the fair market value for federal gift tax purposes of the property transferred on such dates.

The allocation of GST exemption should be made on amended Forms 709 for Year 1, Year 2, and Year 3. The Forms 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. You should attach a copy of this letter to the amended Forms 709.

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

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,

Melissa C. Liquerman

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

PLR-112074-25

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Enclosure:

Copy for § 6110 purposes

cc:

cc: