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Department of the Treasury
Washington, DC 20224

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Person To Contact:
ID No.

Telephone Number:

Refer Reply To:
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Date:
May 04, 2026

Legend

Settlor =
Son =
Grandchild 1 =
Grandchild 2 =
Grandchild 3 =
Grandchild 4 =
Trust =
Son's Trust =

Family Trust =

Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Date 6 =
Divided Trust 1 =

Divided Trust 2 =

Divided Trust 3 =

Divided Trust 4 =

State =
State Court =
State Statute 1 =
State Statute 2 =
Assets =

Dear :

This letter responds to your authorized representative's letter received on June 13, 2025, and subsequent correspondence, requesting generation-skipping transfer (GST), gift, and income tax rulings with respect to a proposed division and modification of Family Trust.

The facts submitted and representations made are summarized as follows:

On Date 1, Settlor established Trust, an irrevocable trust, for the benefit of Son's issue. Date 1 is a date prior to September 25, 1985.

Article II, Paragraph 1 of Trust provides that the trustee may, in its sole discretion, distribute income and principal to the issue of Son, and any income not distributed will be added to principal. Under Article II, Paragraph 3 of Trust, Son may from time to time make a written request to the trustee for amounts of principal for the benefit of Son's children or their issue. Article II, Paragraph 4 of Trust provides that upon the death of Son, all trust principal (and income, if any) will be distributed to Son's children or their issue, or to trusts the beneficiaries of which are Son's children or Son's issue, in such amounts as Son may designate in his last will and testament pursuant to a testamentary limited power of appointment granted to Son by the terms of Trust. Article XI of Trust provides, in relevant part, that if any inter vivos or testamentary limited power of appointment conferred upon any person by the terms of Trust is exercised in favor of a trust, then any interest so appointed must vest within 18 years after the death of all issue of Settlor who are living on Date 1.

Son executed Son's Trust, a revocable trust, on Date 2 and amended the trust several times prior to his death, most recently on Date 3. Son died on Date 4, a resident of State, and Son's Trust became irrevocable. Pursuant to Son's exercise of his testamentary limited power of appointment granted to him by the terms of Trust, all Trust assets at the time of Son's death were added to Family Trust for the benefit of Son's issue. Family Trust is governed by Paragraph 6.6 of Son's Trust and is administered under State law.

Paragraph 6.6(a) of Son's Trust provides that the trustee may distribute income and principal, from time to time to any one or more of Son's then living issue, in any proportions or amounts, equal or unequal, as the trustee deems advisable. All net income not distributed will be accumulated and added to principal. Any distributions to a beneficiary may be retained in a “Distributions Trust” for the primary benefit of that beneficiary pursuant to Paragraph 6.8 (discussed below).

Under Paragraph 6.6(b) of Son’s Trust, the trustee of Family Trust may terminate Family Trust (in whole or in part) before the required mandatory termination as described in Paragraph 6.6(c) by distributing the remaining assets of Family Trust (or any portion thereof) to Son’s then-living issue, *per stirpes*, provided that any assets distributable to an issue of Son may be retained in a Distributions Trust for the primary benefit of such issue pursuant to Paragraph 6.8.

Paragraph 6.6(c) of Son’s Trust provides that if any trust assets remain at the death of a child of Son at a time when no other child of Son is living, the trust will terminate. The remaining trust assets (including any unpaid income and accrued income) shall be distributed to Son’s issue who survive the termination of the trust, *per stirpes*, provided that any assets distributable to a grandchild or other more remote issue of Son will be retained in a Distributions Trust for the primary benefit of such issue pursuant to Paragraph 6.8.

Paragraph 6.8 of Son’s Trust specifies the rules governing the administration of the Distributions Trusts. In relevant part, the trustee will distribute the net income to the primary beneficiary, or to the primary beneficiary’s issue at the trustee’s discretion. The trustee will distribute principal to the primary beneficiary as the trustee deems advisable and to the primary beneficiary’s issue for certain educational and medical expenses of such issue.

Paragraph 6.8(c) of Son’s Trust provides that if any trust assets held in the Distributions Trusts remain at the death of the primary beneficiary, the Distributions Trust will terminate and the remaining trust assets will be administered under the primary beneficiary’s testamentary limited power of appointment. Such power will not be exercised to create a property interest that vests more than 18 years after the death of Settlor’s last surviving issue who was living on Date 1 or in any manner that would cause estate tax inclusion under § 2041(a)(3) of the Internal Revenue Code (Code). If the primary beneficiary does not exercise the limited power of appointment, then upon the primary beneficiary’s death, the remaining assets of the Distributions Trust will be distributed to the primary beneficiary’s issue, *per stirpes.* If no such issue is then living, then the remaining assets will be distributed to the issue who survive the primary beneficiary of the issue of Son who was the primary beneficiary’s parent, *per stirpes*.

Paragraph 7.7 of Son’s Trust provides that no beneficiary who is currently eligible to receive distributions from a trust may participate, as a trustee, in any discretionary decision to withhold or distribute income or principal to any beneficiary from that trust unless the trustee’s authority is limited by an ascertainable standard under § 2041(b)(1)(A) and § 2514(c).

Under the terms of Family Trust, the trustee is empowered under State law to divide any trust into two or more trusts for any tax or other purpose, pro rata or not, in divided or undivided shares.

State Statute 1 provides that "[a]fter notice to the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust."

Upon Son's death on Date 4, the trustee of Family Trust created a separate Distributions Trust for each of the four children of Son: Grandchild 1, Grandchild 2, Grandchild 3, and Grandchild 4.

<u>Proposed Division and Modification</u>

On Date 5, the trustee of Family Trust petitioned State Court for approval to divide and modify the terms of Family Trust, pending receipt of a favorable private letter ruling from the Internal Revenue Service (IRS). On Date 6, State Court issued an order approving the division and modification of Family Trust as set forth in the trustee's petition, pending receipt of a favorable private letter ruling.

Upon the receipt of a favorable private letter ruling, Family Trust will be divided along family lines into four trusts (collectively, the "Divided Trusts"): Divided Trust 1 for the benefit of Grandchild 1 and his issue; Divided Trust 2 for the benefit of Grandchild 2 and his issue; Divided Trust 3 for the benefit of Grandchild 3 and his issue; and Divided Trust 4 for the benefit of Grandchild 4 and his issue. The division will allow the trustee of each of the Divided Trusts to take into account the different investment goals, distribution policies, and estate planning needs of each child of Son. Each Divided Trust will be held in further trust and administered according to the terms of Family Trust. Each Divided Trust must terminate with respect to all property held thereunder no later than 18 years after the death of the last surviving issue of Settlor who was living on Date 1.

The dispositive provisions of the Divided Trusts are the same in all material respects as the dispositive provisions of Family Trust regarding distributions of principal and income and the termination dates of the Divided Trusts. However, the class of permissible beneficiaries of discretionary distributions of income and principal of each Divided Trust is limited to the child of Son for whom the trust is set aside and such child's issue.

In addition to the division of Family Trust, the trustee proposes to modify certain terms of Family Trust. The modified Family Trust agreement (i) removes provisions of the trust agreement that are not relevant to the administration of the Divided Trusts; (ii) identifies the new trustee for each Divided Trust; and (iii) clarifies the obligations of the trustee to provide information regarding trust administration to the beneficiaries.

Specifically, the proposed modified Family Trust agreement provides that the trustee of a Divided Trust who holds a distribution in further trust must serve as the trustee of such share held in further trust.

The terms of the proposed modified Family Trust agreement also provide for the appointment of an investment trust advisor, as that term is defined under State Statute 2, to direct the trustee with respect to Assets held in Family Trust or a separate trust thereof. Under the proposed modified Family Trust agreement, the investment trust advisor will direct the other trustees with respect to all matters pertaining to the investment and management of such Assets (other than a discretionary decision to distribute any interests in Assets to a beneficiary). To the extent the powers granted to the investment trust advisor under the agreement exceed the powers of an investment trust advisor, as defined under State Statute 2, the investment trust advisor will serve as a trust protector, as defined under State Statute 2, for the sole purpose of exercising such powers.

You have requested the following rulings:

1. The proposed division and modification of Family Trust will not cause Family Trust, as modified, or the Divided Trusts to not be exempt from the GST tax;

2. The proposed division and modification of Family Trust will not cause any of the beneficiaries of Family Trust or the Divided Trusts to be treated as having made any transfer subject to the gift tax;

3. The proposed division and modification of Family Trust relative to the allocation of the assets and liabilities of Family Trust in the shares described herein, whether done on a pro rata or non-pro rata basis, will not cause the Divided Trusts, or any beneficiary thereof, to recognize any ordinary income or loss or capital gain or loss;

4. The adjusted bases of the assets in Family Trust, as modified, will be the same as the respective adjusted bases of the assets in Family Trust immediately prior to the division and modification; and the adjusted bases of the assets in the Divided Trusts will be the same as the respective adjusted bases of the assets in the Divided Trusts immediately prior to the modification, pursuant to § 1015; and

5. The holding periods of the assets in Family Trust, as modified, will be the same as the holding periods of the assets in Family Trust immediately prior to the division and modification; and the holding periods of the assets in the Divided Trusts, as modified, will be the same as the holding periods of the assets in Divided Trusts immediately prior to the modification, pursuant to § 1223(2).

LAW AND ANALYSIS

Ruling 1

Section 2601 imposes a tax on every generation-skipping transfer. 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.

Section 26.2601-1(b)(4)(i)(D) provides that a modification of the governing instrument of an exempt trust, by judicial reformation or nonjudicial reformation that is valid under applicable state law, will not cause an exempt trust to be subject to the GST tax 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. A modification that is administrative in nature that only indirectly increases the amount transferred will not be considered to shift a beneficial interest in the trust.

Section 26.2601-1(b)(4)(i)(E), *Example 5*, illustrates a situation where a trust that is otherwise exempt from the GST tax is divided into two trusts. Under the facts presented, the division of a trust into two trusts does not shift any beneficial interest in the trust to a beneficiary who occupies a lower generation (as defined in § 2651) than the person or persons who held the beneficial interest prior to the division, and the division does not extend the time for vesting of any beneficial interest in the trust beyond the period provided for in the original trust. Accordingly, the two partitioned trusts will not be subject to the GST tax.

Section 26.2601-1(b)(4)(i)(E), *Example 10*, considers the following situation. In 1980, Grantor established an irrevocable trust for the benefit of Grantor's issue, naming a bank and five other individuals as trustees. In 2002, the appropriate local court approves a modification of the trust that decreases the number of trustees which results in lower administrative costs. The modification pertains to the administration of the trust and 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. In addition, 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. Therefore, the trust will not be subject to the provisions of chapter 13 of the Code.

In this case, Family Trust will be divided into new, equal Divided Trusts, to be administered and distributed according to the terms of Family Trust. In addition, several administrative provisions of Family Trust, including provisions related to the appointment and succession of trustees, are being modified. The modification of Family Trust also provides for the appointment of an investment trust advisor and trust protector responsible for the investment and management of Assets.

Each Divided Trust created from the division of Family Trust will be administered under the same dispositive provisions under which Family Trust has been administered since it was initially funded. Each share of each Divided Trust is administered under the same dispositive provisions both before and after the modification of Family Trust. After the division of Family Trust into Divided Trusts and the modification of Family Trust, all beneficial interests in Family Trust and the Divided Trusts must vest within 18 years of Settlor’s last surviving issue living on Date 1.

As in § 26.2601-1(b)(4)(i)(E), *Example 5*, the division of Family Trust does not shift any beneficial interest in Family Trust to a beneficiary who occupies a lower generation (as defined in § 2651) than the person or persons who held the beneficial interest prior to the division, and the division does not extend the time for vesting of any beneficial interest in Family Trust beyond the period provided for in Family Trust prior to the division.

Further, as in § 26.2601-1(b)(4)(i)(E), *Example 10*, the proposed modifications to Family Trust pertain to the administration of the trust and do not result in a shift of any beneficial interest in Family Trust to any beneficiary who occupies a generation lower than the persons holding the beneficial interests before the modifications. Further, these proposed modifications do not extend the time for vesting of any beneficial interest under Family Trust, as modified, beyond the period provided for in Family Trust prior to the modifications.

Accordingly, based on the facts submitted and the representations made, we conclude that the division and modification of Family Trust pursuant to the Date 6 State Court order will not cause Family Trust, as modified, or the Divided Trusts to lose GST tax-exempt status or otherwise become subject to the GST tax.

Ruling 2

Section 2501(a)(1) imposes a tax for each calendar year on the transfer of property by gift 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 Family Trust and the Divided Trusts have the same beneficial interests after the division and modification of Family Trust that they had before the division and modification. Because the beneficial interests of the beneficiaries are the same both before and after the proposed division and modification, no transfer of property is deemed to occur as a result of the division and modification of Family Trust. Accordingly, based on the facts submitted and the representations made, we conclude that the proposed division and modification will not cause any beneficiary of Family Trust or the Divided Trusts to have made a gift subject to federal gift tax.

Ruling 3

Section 61(a)(3) provides that gross income includes gains derived from dealings in property and, under § 61(a)(15), from an interest in a trust.

Section 1001(a) provides that the gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in § 1011 for determining gain, and the loss shall be the excess of the adjusted basis provided in § 1011 for determining loss over the amount realized.

Section 1001(b) states that the amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received. Under § 1001(c), except as otherwise provided in subtitle A, the entire amount of gain or loss, determined under § 1001, on the sale or exchange of property shall be recognized.

Section 1.1001-1(a) of the Income Tax Regulations provides that the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or loss sustained.

Section 1.1001-1(h)(1) provides that the severance of a trust (including without limitation a severance that meets the requirements of § 26.2642-6 or § 26.2654-1(b) of this chapter) is not an exchange of property for other property differing materially either in kind or in extent if (i) an applicable state statute or the governing instrument authorizes or directs the trustee to sever the trust, and (ii) any non-pro rata funding of the separate trusts resulting from the severance whether mandatory or in the discretion of the trustee, is authorized by an applicable state statute or governing instrument.

Rev. Rul. 56-437, 1956-2 C.B. 507, provides that a partition of jointly owned property pursuant to state law is not a sale or other disposition of property where the co-owners of the joint property sever their joint interests, but do not acquire a new or additional interest as a result of the transaction. Thus, neither gain nor loss is realized on a partition.

State Statute 1 authorizes a trustee to divide any trust, whenever created, into two or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.

In this case, the trustee has authority, under State law and under the trust agreement, to divide Family Trust and to allocate assets of Family Trust and the Divided Trusts on a pro rata or non-pro rata basis. The beneficiaries do not acquire their interest in the Divided Trusts as a result of the exchange of their interests in Family Trust, but by reason of the trustee's exercise of their existing authority to allocate assets on a pro rata or non-pro rata basis in further trust. The proposed transaction is analogous to the partition of a joint interest under Rev. Rul. 56-437.

Accordingly, based on the facts submitted and the representations made, we conclude that the allocation of the assets and liabilities of Family Trust and the Divided Trusts in the shares described herein, whether done on a pro rata or non-pro rata basis, will not cause Family Trust or the Divided Trusts, or any beneficiary thereof, to recognize any ordinary income or loss or capital gain or loss.

Rulings 4 and 5

Section 1015(b) provides that if property is acquired after December 31, 1920, by a transfer in trust (other than a transfer in trust by a gift, bequest, or devise), the basis shall be the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor on such transfer.

Section 1.1015-2(a)(1) provides that in the case of property acquired after December 31, 1920, by transfer in trust (other than by transfer in trust by gift, bequest, or devise), the basis of property so acquired is the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor on the transfer under the law applicable to the year in which the transfer was made. If the taxpayer acquired the property by transfer in trust, this basis applies whether the property is in the hands of the trustee or the beneficiary, and whether acquired prior to termination of the trust and distribution of the property, or thereafter.

Section 1223(2) provides that in determining the period for which the taxpayer has held property, however acquired, there shall be included the period for which such property was held by any other person, if under chapter 1 of the Code such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in the taxpayer's hands as it would have in the hands of such other person.

In this case, as stated above, § 1001 does not apply to the proposed transaction. Thus, after the division of Family Trust, the adjusted bases of the assets in Family Trust, as modified, will be the same as the respective adjusted bases of the assets in Family Trust immediately prior to the modification, under § 1015. Further, the adjusted bases of the assets in the Divided Trusts will be the same as the respective adjusted bases of the assets in the Divided Trusts immediately prior to the modification, under § 1015.

We also conclude that, under § 1223(2), the holding periods of the assets in Family Trust, as modified, will be the same as the holding periods of the assets in Family Trust immediately prior to the division and modification, and the holding periods of the assets in the Divided Trusts will be the same as the holding periods of the assets in the Divided Trusts immediately prior to the modification.

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

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.

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,

Leslie H. Finlow

[Leslie H. Finlow]
Senior Technician Reviewer, Branch 4
Office of the Associate Chief Counsel
(Passthroughs, Trusts, and Estates

Enclosure:
Copy for § 6110 purposes

cc:

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