Internal Revenue Service

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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:
CC:PT&E:B04
PLR-109689-25

Date:
May 15, 2026

In Re:

Legend

Taxpayer	=	
Spouse	=	
Accounting Firm	=	
Child 1	=	
Child 2	=	
Child 3	=	
Law Firm 1	=	
Law Firm 2	=	
Year 1	=	
Year 2	=	
Year 3	=	
Year 4	=	
Year 5	=	
Year 6	=	
Year 7	=	
Year 8	=	
Year 9	=	
Year 10	=	
Year 11	=	
Year 12	=	
Trust A	=	
Trust B	=	
Trust C	=	
Trust D	=	

Trust E	=
Trust 1.1	=
Trust 1.2	=
Trust 1.3	=
Trust 6.1	=
Trust 6.2	=
Trust 6.3	=
Trust 6.4	=
Trust 6.5	=
Trust 6.6	=
Trust 6.7	=
Trust 6.8	=
Trust 7.1	=
Trust 7.2	=
Trust 7.3	=
Trust 7.4	=
Trust 7.5	=
Trust 7.6	=
Trust 9.1	=
Trust 9.2	=
Trust 9.3	=
Trust 9.4	=
Trust 9.5	=
Trust 9.6	=
Trust 9.7	=
Trust 9.8	=
Trust 9.9	=
Trust 9.10	=

Dear :

This letter responds to your authorized representative's letter dated April 24, 2025, 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 make an election under § 2632(c)(5) to have the automatic allocation generation-skipping transfer (GST) exemption rules under § 2632(c)(1) not apply with respect to certain transfers to trusts.

The facts and representations submitted are summarized as follows:

In Year 1, a date before January 1, 2001, Taxpayer established and funded three grantor retained annuity trusts (Year 1 GRATs): Trust 1.1, Trust 1.2, and Trust 1.3. Under the terms of each trust, Taxpayer retained the right to receive annual payments from each trust for a specified period of years. At the end of each trust's term, any remaining assets in that trust were required to be divided into equal shares for Taxpayer's children, and each child's share was to be held in trust for the benefit of that child and that child's issue.

Trust 1.1 terminated in Year 2, a date before January 1, 2001, and upon termination, the assets of Trust 1.1 were divided into separate trusts established for Taxpayer's children: Trust A for the benefit of Child 1 and Child 1's issue; Trust B for the benefit of Child 2 and Child 2's issue; and Trust C for the benefit of Child 3 and Child 3's issue. Trust A, Trust B, and Trust C have GST potential. Trust 1.2 terminated in Year 3, and upon termination, the assets of Trust 1.2 were divided and transferred to Trust A, Trust B, and Trust C. Trust 1.3 terminated in Year 4, and upon termination, the assets of Trust 1.3 were divided and transferred to Trust A, Trust B, and Trust C. For GST tax purposes, the estate tax inclusion period (ETIP) for Trust 1.2 closed in Year 3 and the ETIP for Trust 1.3 closed in Year 4.

Taxpayer retained several legal and tax professionals to advise him with respect to his estate and tax planning for the Year 1 GRATs. Taxpayer retained Law Firm 1 to draft the Year 1 GRATs and to advise Taxpayer with respect to all tax matters related to the Year 1 GRATs. Taxpayer retained Accounting Firm to prepare Taxpayer's Forms 709, United States Gift (and Generation-Skipping Transfer) Tax Return, for all relevant years with respect to the Year 1 GRATs. However, neither Law Firm 1 nor Accounting Firm advised Taxpayer about electing out of the automatic allocation of GST exemption pursuant to § 2632(c)(5)(A)(i) with respect to any of the Year 1 GRATs. In particular, with respect to the transfers made in Year 1, Taxpayer was not advised of the rules for electing out of the automatic allocation of GST exemption on a Form 709 before the close of the ETIP with respect to Trust 1.2 in Year 3 and Trust 1.3 in Year 4.

In Year 5, Taxpayer established an irrevocable trust, Trust D, for the primary benefit of Spouse and the descendants of Taxpayer. Trust D has GST potential.

In Year 6, Taxpayer established and funded eight GRATs (Year 6 GRATs): Trust 6.1, Trust 6.2, Trust 6.3, Trust 6.4, Trust 6.5, Trust 6.6, Trust 6.7, and Trust 6.8. Under the terms of each trust, Taxpayer retained the right to receive annual payments from each trust, until the end of each trust's term in Year 8. At the end of each trust's term, any remaining assets in trust were required to be distributed to Trust D. Pursuant to § 26.2632-1(c)(2)(ii)(A), the Year 6 GRATs are not subject to an ETIP.

Also in Year 6, Taxpayer established an irrevocable trust, Trust E, for the primary benefit of Spouse and the great-grandchildren and further descendants of Taxpayer. Trust E has GST potential.

In Year 7, Taxpayer established and funded six GRATs (Year 7 GRATs): Trust 7.1, Trust 7.2, Trust 7.3, Trust 7.4, Trust 7.5, and Trust 7.6. Under the terms of each trust, Taxpayer retained the right to receive annual payments from each trust, until the end of each trust's term in Year 9. At the end of each trust's term, any remaining assets in that trust were required to be distributed to Trust E. Pursuant to § 26.2632-1(c)(2)(ii)(A), the Year 7 GRATs are not subject to an ETIP.

In Year 9, Taxpayer established and funded ten GRATs (Year 9 GRATs): Trust 9.1, Trust 9.2, Trust 9.3, Trust 9.4, Trust 9.5, Trust 9.6, Trust 9.7, Trust 9.8, Trust 9.9, and Trust 9.10. Under the terms of each trust, Taxpayer retained the right to receive annual payments from each trust, until the end of each trust's term in Year 10. At the end of each trust's term, any remaining assets in that trust were required to be distributed to Trust D. For GST tax purposes, the ETIP for the Year 9 GRATs closed in Year 10.

Taxpayer retained Law Firm 2 to draft Trust D, Trust E, and the Year 6, Year 7, and Year 9 GRATs as well as to advise Taxpayer on all transfer tax matters with respect to the GRATs, including advice with respect to the GST tax. Taxpayer's family office was responsible for coordinating all aspects of Taxpayer's estate planning and working closely with Law Firm 2 and Taxpayer's accountants and other advisers to ensure the proper preparation of the Forms 709 for Taxpayer's timely filing with respect to the Year 6 GRATs, Year 7 GRATs, and Year 9 GRATs. Law Firm 2 and Taxpayer's family office, accountants and other advisors failed to prepare the Forms 709 for all relevant years and failed to properly advise Taxpayer on issues related to the allocation of GST exemption. Upon Taxpayer's death in Year 11, Spouse's new advisors discovered these failures. Accordingly, in Year 12, Spouse, in her capacity as executor of Taxpayer's estate, filed all required Forms 709 on behalf of Taxpayer. Spouse consented under § 2513 to treat all of the gifts reported on the Forms 709 as having been made one-half by Spouse and one-half by Taxpayer.

Because Taxpayer's advisors did not file timely Forms 709 electing out of the automatic allocation of GST to the various transfers, Taxpayer's estate now requests an extension of time under § 2642(g) to elect out of the automatic allocation of GST exemption under § 2632(c)(5)(A)(i) with respect to the Year 1 transfers made to

Trust 1.2 and Trust 1.3, the Year 6 transfers made to the Year 6 GRATs, the Year 7 transfers made to the Year 7 GRATs, and the Year 9 transfers made to the Year 9 GRATs.

LAW AND ANALYSIS

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. Such consent, if signified with respect to any calendar period, is effective with respect to all gifts made to third parties during such calendar period except, in part, if one spouse transferred property in part to his or her spouse and in part to third parties, the consent is effective with respect to the interest transferred to third parties only insofar as such interest is ascertainable at the time of the gift and severable from the interest transferred to his or her spouse.

Section 2601 provides that a tax is imposed on every generation-skipping transfer (GST). Section 2611(a) provides that the term "generation-skipping transfer" means: (1) a taxable distribution; (2) a taxable termination; and (3) a direct skip.

Section 2602 provides that the amount of GST tax is the taxable amount multiplied by the applicable rate. Section 2641(a) defines the applicable rate as the product of the maximum federal estate tax rate and the inclusion ratio with respect to the transfer.

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 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 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) provides, in relevant part, that the term "GST trust" means a trust that could have a GST with respect to the transferor unless an exception listed in § 2632(c)(3)(B)(i)-(vi) applies.

Section 2632(c)(4) provides that for purposes of § 2632(c), an indirect skip to which § 2642(f) applies shall be deemed to have been made only at the close of the ETIP. The fair market value of such transfer shall be the fair market value of the trust property at the close of the ETIP.

Section 2632(c)(5)(A)(i) provides, in relevant part, that an individual may elect to have the automatic allocation rules of § 2632(c)(1) not apply to -- (I) an indirect skip, or (II) any or all transfers made by such individual to a particular trust. Section 2632(c)(5)(B)(ii) provides, in relevant part, that the election under § 2632(c)(5)(A)(i)(II) may be made on a timely-filed gift tax return for the calendar year for which the election is to become effective.

Section 26.2632-1(b)(2)(i) provides that in the case of an indirect skip made after December 31, 2000, to which § 2642(f) (relating to transfers subject to the ETIP) does not apply, the transferor's unused GST exemption is automatically allocated to the property transferred (but not in excess of the fair market value of the property on the date of the transfer). This automatic allocation is effective whether or not a Form 709 is filed reporting the transfer and is effective as of the date of the transfer to which it relates. An automatic allocation is irrevocable after the due date of the Form 709 for the calendar year in which the transfer is made.

Section 26.2632-1(b)(2)(ii) provides that, except as otherwise provided, the transferor may prevent the automatic allocation of GST exemption with regard to an indirect skip by making an election as provided in § 26.2632-1(b)(2)(iii).

Section 26.2632-1(b)(2)(iii)(A) provides, in relevant part, that a transferor may prevent the automatic allocation of GST exemption (elect out) with respect to any transfer or transfers constituting an indirect skip made to a trust or to one or more separate shares that are treated as separate trusts under § 26.2654-1(a)(1). A transferor may elect out with respect to: (1) one or more prior-year transfers subject to § 2642(f) (regarding ETIPs) made by the transferor to a specified trust or trusts; (2) one or more (or all) current-year transfers made by the transferor to a specified trust or trusts; (3) one or more (or all) future transfers made by the transferor to a specified trust or trusts; and (4) all future transfers made by the transferor to all trusts (whether or not in existence at the time of the election out); or (5) any combination of (1) through (4).

Section 26.2632-1(b)(2)(iii)(B) provides that to elect out, the transferor must attach an election out statement to a Form 709 filed within the time period provided in § 26.2632-1(b)(2)(iii)(C). In general, the election out statement must identify the trust, and specifically must provide that the transferor is electing out of the automatic allocation of GST exemption with respect to the described transfer or transfers. Under § 26.2632-1(b)(2)(iii)(C), to elect out, the Form 709 with the attached election out statement must be filed on or before the due date for timely filing the Form 709 for the calendar year in which: (1) for a transfer subject to § 2642(f), the ETIP closes; or (2) for all other elections out, the first transfer to be covered by the election out was made.

Section 26.2632-1(c)(1)(i) provides that a direct skip or an indirect skip that is subject to an ETIP is deemed to have been made only at the close of the ETIP. The transferor may prevent the automatic allocation of GST exemption to a direct skip or an indirect skip by electing out of the automatic allocation rules at any time prior to the due date of the Form 709 for the calendar year in which the close of the ETIP occurs (whether or not any transfer was made in the calendar year for which the Form 709 was filed, and whether or not a Form 709 otherwise would be required to be filed for that year).

Section 26.2632-1(c)(2)(i) provides, generally, that an ETIP is the period during which, should death occur, the value of transferred property would be includible (other than by reason of § 2035) in the gross estate of the transferor or the spouse of the transferor.

Section 26.2632-1(c)(2)(ii)(A) provides that for purposes of § 26.2632-1(c)(2), the value of transferred property is not considered as being subject to inclusion in the gross estate of the transferor or the spouse of the transferor if the possibility is so remote as to be negligible. A possibility is so remote as to be negligible if it can be ascertained by actuarial standards that there is less than a five percent probability that the property will be included in the gross estate.

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, generally, 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).

Section 2642(g)(1)(B) provides that in determining whether to grant relief under § 2642(g)(1), 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, 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 upon all the relevant facts and circumstances, as submitted, including the trust instruments of the trusts at issue, additional contemporaneous documentation, the history of Taxpayer's and Spouse's inter vivos transfers, and the affidavits submitted by Taxpayer's advisors and Spouse, we conclude that the requirements of § 26.2642-7 have been satisfied. Accordingly, Taxpayer's estate is granted an extension of time of

120 days from the date of this letter to elect out of the automatic allocation rules under § 2632(c)(5)(A)(i).

The elections should be made in the following manner. The election for Taxpayer's Year 1 transfer to Trust 1.2 should be made on an amended Form 709 for Year 3 (the year in which the ETIP closed). The election for Taxpayer's Year 1 transfer to Trust 1.3 should be made on an amended Form 709 for Year 4 (the year in which the ETIP closed). The election for Taxpayer's Year 6 transfers to the Year 6 GRATs should be made on an amended Form 709 for Year 6. The election for Taxpayer's Year 7 transfers to the Year 7 GRATs should be made on an amended Form 709 for Year 7. The election for Taxpayer's Year 9 transfers to the Year 9 GRATs should be made on an amended Form 709 for Year 10 (the year in which the ETIP closed).

The amended Forms 709 should be filed with the Internal Revenue Service Center 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, 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,

Melissa C. Liquerman

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

Enclosure:
Copy for § 6110 purposes

cc:

cc: