**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-118858-25

Date:
May 20, 2026

<u>Legend</u>

| | |
|---|---|
| Decedent | = |
| Spouse | = |
| Trust | = |
| GST Exempt Marital Trust | = |
| GST Non-Exempt Marital Trust | = |
| Accountant | = |
| Date 1 | = |
| Date 2 | = |
| Date 3 | = |
| Date 4 | = |

Dear :

This letter responds to a letter from your authorized representative dated September 29, 2025, and subsequent correspondence, requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make a qualified terminable interest property (QTIP) election under § 2056(b)(7) of the Internal Revenue Code (Code) and a reverse QTIP election under § 2652(a)(3).

The facts and representations submitted are summarized as follows:

On Date 1, Decedent and Spouse created Trust, a revocable trust. Trust was amended and restated in its entirety on Date 2 and further amended on Date 3. Decedent died on Date 4 and Trust became irrevocable. Decedent was survived by Spouse.

Pursuant to Article VII of Trust, upon the death of Decedent, the trustee divided Trust into three separate trusts designated as the "Survivor's Trust," the "Family Trust," and the "Marital Trust." The Survivor's Trust was funded with the Spouse's share of Decedent's and Spouse's community property as well as with Spouse's separate property. The Family Trust was funded with a pecuniary amount equal to the maximum sum that can be allocated to a trust without producing any federal estate tax. The Marital Trust was for the sole benefit of Spouse and was funded with the balance of the Trust estate.

Pursuant to Article VIII of Trust, Spouse is entitled to the entire net income of Marital Trust, to be paid at least quarter-annually, and to discretionary distributions of principal for support, maintenance, health and education. Spouse also has a right to withdraw each calendar year the greater of five thousand dollars ($5,000) or five percent (5%) of the value of the principal in Marital Trust, determined as of the end of the calendar year. Further, Item 52 of the General Provisions Relating to Trust Administration (Administration Provisions) provides that no underproductive or nonproductive property may be acquired or held as an asset of Marital Trust without the express written consent of Spouse.

Marital Trust was severed into the GST Exempt Marital Trust and the GST Non-Exempt Marital Trust in compliance with Item 58 of the Administrative Provisions, which requires severance of any trust created under Trust if the executor intends to allocate GST exemption to some but not all of the property in the trust.

Spouse engaged Accountant to prepare Decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return and to make any necessary elections. Accountant prepared and timely filed the Form 706. On Schedule M of Form 706, however, CPA mistakenly did not include the GST Exempt Marital Trust and GST Non-Exempt Marital Trust as subject to the QTIP election and, therefore, no valid QTIP election was made with respect to GST Exempt Marital Trust and GST Non-Exempt Marital Trust, and no reverse QTIP election was made with respect to the GST Exempt Marital Trust.

You have requested an extension of time under §§ 301.9100-1 and 301.9100-3 to make a QTIP election with respect to GST Exempt Marital Trust and GST Non-Exempt Marital Trust under § 2056(b)(7) and a reverse QTIP election with respect to GST Exempt Marital Trust pursuant to § 2652(a)(3).

LAW AND ANALYSIS

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 2056(a) provides that, for purposes of the tax imposed by § 2001, the value of the taxable estate shall, except as limited by § 2056(b), be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to the surviving spouse, but only to the extent that such interest is included in determining the value of the gross estate.

Section 2056(b)(7)(A) provides that, in the case of qualified terminable interest property, for purposes of § 2056(a), such property shall be treated as passing to the surviving spouse, and for purposes of § 2056(b)(1)(A), no part of such property shall be treated as passing to any person other than the surviving spouse.

Section 2056(b)(7)(B)(i) defines the term "qualified terminable interest property" as property: (I) which passes from the decedent; (II) in which the surviving spouse has a qualifying income interest for life as defined in § 2056(b)(7)(B)(ii); and (III) to which an election under § 2056(b)(7) applies.

Section 2056(b)(7)(B)(ii) provides that the surviving spouse has a qualifying income interest for life if: (I) the surviving spouse is entitled to all the income from the property, payable annually or at more frequent intervals, or has a usufruct interest for life in the property; and (II) no person has a power to appoint any part of the property to any person other than the surviving spouse.

Section 2056(b)(7)(B)(v) provides that an election under § 2056(b)(7) with respect to any property shall be made by the executor on the return of tax imposed by § 2001. Such an election, once made, shall be irrevocable.

Section 20.2056(b)-7(b)(4)(i) provides that, in general, the election referred to in § 2056(b)(7)(B)(i)(III) and (v) is made on the return of tax imposed by § 2001 (or § 2101). For purposes of this paragraph, the term "return of tax imposed by § 2001" means the last estate tax return filed by the executor on or before the due date of the return, including extensions or, if a timely return is not filed, the first estate tax return filed by the executor after the due date.

Section 2601 imposes a tax on every GST. Section 2611 provides that a GST includes a taxable distribution, a taxable termination, and a direct skip.

Section 2602 provides that the amount of the GST tax is the taxable amount multiplied by the applicable rate. Section 2641(a) defines "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 the individual (or his executor) to any property with respect to which the individual is the transferor. Section 2631(b) provides that any allocation under § 2631(a), once made, shall be irrevocable.

Under § 2632(a), any allocation by an individual of his GST exemption may be made at any time on or before the date prescribed for filing the individual's estate tax return (including extensions).

Section 2632(e)(1) provides that any portion of an individual's GST exemption which has not been allocated within the time prescribed by § 2632(a) shall be deemed to be allocated as follows: (A) first, to property which is the subject of a direct skip occurring at such individual's death, and (B) second, to trusts with respect to which such individual is the transferor and from which a taxable distribution or a taxable termination might occur at or after such individual's death.

Section 2642(a)(1) provides that, generally, the inclusion ratio with respect to any property transferred in a GST is the excess of one over the applicable fraction determined for the trust. Section 2642(a)(2) provides that, in general, the applicable fraction is a fraction the numerator of which is the amount of the GST exemption allocated to the trust and the denominator of which is the value of the property transferred to the trust, 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 2652(a)(1) provides that for purposes of chapter 13, the term "transferor" means: (A) in the case of any property subject to the tax imposed by chapter 11, the decedent; and (B) in the case of any property subject to the tax imposed by chapter 12, the donor. An individual shall be treated as transferring any property with respect to which such individual is the transferor.

Section 2652(a)(3) provides, in pertinent part, that in the case of any trust with respect to which a deduction is allowed to the decedent under § 2056(b)(7), the estate of the decedent may elect to treat all of the property in such trust for GST tax purposes as if the election to be treated as qualified terminable interest property had not been made ("reverse" QTIP election).

Section 26.2652-2(a) of the Generation-Skipping Transfer Tax Regulations provides, in part, that a reverse QTIP election is not effective unless it is made with respect to all of the property in the trust to which the QTIP election applies. Section 26.2652-2(b) provides that an election under § 2652(a)(3) is made on the return on which the QTIP election is made.

Section 26.2652-1(a)(3) provides that solely for purposes of chapter 13, if a transferor makes a reverse QTIP election, the identity of the transferor of the property is determined without regard to the application of §§ 2044, 2207A and 2519.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I.

Section 301.9100-3 provides the standards used to determine whether to grant an extension of time to make an election whose date is prescribed by a regulation (and not expressly provided by statute).

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

Section 301.9100-3(b)(1)(v) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Based on the facts submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, the executors of Decedent's estate are granted an extension of time of 120 days from the date of this letter to make a QTIP election under § 2056(b)(7) with respect to GST Exempt Marital Trust and GST Non-Exempt Marital Trust and a reverse QTIP election under § 2652(a)(3) with respect to GST Exempt Marital Trust. The elections should be made on a supplemental Form 706 filed with the Department of the Treasury, Internal Revenue Service, Kansas City, MO 64999. A copy of this letter should be attached to the supplemental Form 706.

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, we have sent a copy of this letter to your authorized representatives.

Sincerely,

Acting Associate Chief Counsel
Passthroughs, Trusts, and Estates

By: _______________________________
Leslie H. Finlow
Senior Technician Reviewer. Branch 4
Office of the Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure (1):
Copy for § 6110 purposes

cc: