

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-102634-26

Date:

June 30, 2026

Legend

Donor	=
Spouse	=
Date 1	=
Date 2	=
Year 1	=
Year 2	=
Trust	=

Attorney	=
Accountant 1	=
Accountant 2	=
<u>a</u>	=

Dear :

This letter responds to your authorized representative's letter dated December 30, 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 a transfer to a trust.

The facts and representations submitted are as follows:

In Year 1, Donor engaged Attorney for estate planning advice, including preparation of Trust. On Date 1, in Year 1, Donor created Trust, an irrevocable trust.

The primary purpose of Trust was to benefit Donor's descendants. Trust has GST potential.

On Date 2, in Year 1, Donor transferred to Trust \$a in assets held in investment accounts. Donor and Spouse engaged Accountant 1 to prepare and file their respective Year 1 Forms 709 (United States Gift (and Generation-Skipping Transfer) Tax Returns). On their respective Year 1 Forms 709, Donor and Spouse consented to treat Year 1 gifts as being made one-half by each spouse pursuant to § 2513. Donor informed Accountant 1 that the primary purpose of Trust was to benefit future generations. Accountant 1 prepared Donor's and Spouse's Year 1 Forms 709, and on each return, mistakenly made the election under § 2632(c)(5) to opt out of the automatic allocation of GST exemption. Accordingly, Donor and Spouse failed to allocate GST exemption to the Year 1 transfer.

In Year 2, Donor and Spouse retained a new accountant, Accountant 2. In Year 2, Accountant 2 and Attorney discovered the mistaken election to opt out of the automatic allocation of GST exemption that Accountant 1 made on Donor's and Spouse's Year 1 Forms 709.

Donor represents that no distributions have been made from Trust. Donor also represents that prior to Year 1, Donor did not make any gifts that were subject to GST tax and that Donor had sufficient GST exemption available to allocate to the portion of the Year 1 transfer to Trust attributable to Donor.

Donor requests an extension of time to allocate GST exemption to the portion of the Year 1 transfer to Trust attributable to Donor.

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 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 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 2632(c)(5)(A)(ii) provides that any individual may elect to treat any trust as a GST trust for purposes of this subsection with respect to any or all transfers made

by such individual to such 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, Donor is granted an extension of time of 120 days from the date of this letter to allocate Donor's GST exemption to the portion of the Year 1 transfer to Trust attributable to Donor.

The allocation of GST exemption should be made on an amended Form 709 for Year. The Form 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.

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) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Melissa C. Liquerman

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

Enclosure

Copy for § 6110 purposes

cc:	
cc:	