

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-120152-24

Date:

April 24, 2025

Legend

Grantor	=
Trust 1	=
Trust 2	=
Child 1	=
Child 2	=
Accountant	=
Date 1	=
Date 2	=
Year	=

Dear :

This letter responds to your authorized representative's letter dated October 8, 2024, 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 make an election under § 2632(c)(5)(A)(ii).

The facts and representations submitted are as follows:

On Date 1, in Year, Grantor executed two separate trust agreements, Trust 1 and Trust 2. Trust 1 was created for the primary benefit of Grantor's child, Child 1, and also provides for Child 1's descendants. Trust 2 was created for the primary benefit of Grantor's child, Child 2, and also provides for Child 2's descendants. Child 1 serves as trustee for Trust 1, and Child 2 serves as trustee for Trust 2. On Date 2, in Year, Grantor transferred cash to both trusts.

Grantor engaged Accountant to prepare his Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, for Year. Grantor intended that the transfers to Trust 1 and Trust 2 would be exempt from GST tax. Accountant prepared Grantor's Year Form 709 but failed to elect to treat Trust 1 and Trust 2 as GST trusts. Due to the failure, the automatic allocation of GST exemption did not apply to Grantor's Year transfer to Trust 1 and Trust 2.

Grantor represents that Grantor made no other gifts which are subject to the GST tax or to which GST exemption was or should have been allocated. Further, Grantor represents that no taxable distribution or taxable termination has occurred with respect to Trust 1 or Trust 2.

Grantor requests an extension of time pursuant to § 2642(g) and § 26.2642-7 to elect under § 2632(c)(5)(ii) to treat Trust 1 and Trust 2 as GST trusts.

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 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)(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 IRS 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 reasonable reliance by the transferor or the executor of the transferor's estate on the advice of a qualified tax professional.

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 elect to treat Trust 1 and Trust 2 as GST trusts. As a result of the election, the automatic allocation rules of § 2632(c) apply to allocate Grantor's available GST exemption to the Year transfers to Trust 1 and Trust 2. The allocation will be effective as of Date 2, the date of Grantor's transfer to the trusts, and the value of the transfer as determined for federal gift tax purposes will be used in determining the amount of GST exemption to be allocated to Trust 1 and Trust 2.

The election to treat Trust 1 and Trust 2 as GST trusts 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) provides that it may not be used or cited as precedent.

Sincerely,

Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Leslie H. Finlow

By:

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

Enclosure

Copy for § 6110 purposes

cc:

cc:

cc: