

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201552006**
Release Date: 12/24/2015

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 2632.00-00, 9100.00-00

Person To Contact:
, ID No.

Telephone Number:

In Re:

Refer Reply To:
CC:PSI:B04
PLR-112098-15
Date:
August 18, 2015

Legend:

Taxpayer =
Trust =
Date =
Year =

Dear :

This letter responds to your authorized representative's letter of February 23, 2015, requesting an extension of time pursuant to § 2642(g) of the Internal Revenue Code and § 301.9100 of the Procedure and Administration Regulations to allocate generation-skipping transfer (GST) exemption to a transfer to a trust.

The facts submitted and the representations made are summarized as follows. On Date, in Year, Taxpayer made a transfer to Trust, an irrevocable trust. Trust has GST tax potential. Taxpayer retained a tax professional to advise him. The tax professional inadvertently failed to advise Taxpayer to allocate GST exemption to the transfer on a timely filed Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return. It has been represented that Taxpayer has sufficient GST exemption available to allocate to the Date transfer to Trust.

Taxpayer requests an extension of time pursuant to § 2642(g) and § 301.9100 to allocate GST exemption to the Date transfer to Trust, with such allocation being effective as of Date.

Law and Analysis:

Section 2601 imposes a tax on every GST. A GST 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 is the taxable amount multiplied by the applicable rate.

Section 2631(a) provides that for purposes of determining the inclusion ratio, every individual is 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, is irrevocable.

Section 26.2632-1(b)(4)(i) of the Generation-Skipping Transfer Tax Regulations provides that an allocation of GST exemption to property transferred during the transferor's lifetime, other than in a direct skip, is made on Form 709, a Federal gift tax return.

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 include procedures for requesting comparable relief with respect to transfers made before the date of the enactment of this paragraph.

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.

Notice 2001-50, 2001-2 C.B. 189, provides that under § 2642(g)(1)(B), the time for allocating the GST exemption to lifetime transfers and transfers at death, the time for electing out of the automatic allocation rules, and the time for electing to treat any trust as a GST trust are to be treated as if not expressly prescribed by statute. The Notice further provides that taxpayers may seek an extension of time to make an allocation described in § 2642(b)(1) or (b)(2) or an election described in § 2632(b)(3) or (c)(5) under the provisions of §§ 301.9100-1 through 301.9100-3.

Sections 301.9100 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-1(a).

Section 301.9100-2 provides an automatic extension of time for making certain elections.

Section 301.9100-3(a) provides, in part, that requests for relief subject to § 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 the grant of 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 to 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. Therefore, Taxpayer is granted an extension of time of 120 days from the date of this letter to allocate Taxpayer's available GST exemption to the Date transfer to Trust. The allocation will be effective as of Date and the fair market value of the Date transfer (as determined for Federal gift tax purposes) will be used to determine the amount of Taxpayer's GST exemption to be allocated to this transfer.

The allocation should be made on a Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, for Year and filed with the Cincinnati Service Center at the following address: Internal Revenue Service, Cincinnati Service Center - Stop 82, Cincinnati, OH 45999. A copy of this letter should be attached to each supplemental Form 709.

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. Specifically, we are not ruling on whether Trust will have a zero inclusion ratio as a result of the allocation of Taxpayer's exemption to the Date transfer.

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.

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

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.

Sincerely,

Leslie H. Finlow

Leslie H. Finlow
Senior Technician Reviewer, Branch 4
(Passthroughs & Special Industries)

Enclosures:
Copy for section 6110 purposes

cc: