Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201928003**
Release Date: 7/12/2019

Index Number: 2512.00-00, 7520.00-00,
7520.02-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
  , ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B04
PLR-123430-18
Date:
March 28, 2019

RE:

<u>Legend</u>:

Taxpayer	=
Date 1	=
Date 2	=
Date 3	=

Dear   :

This responds to your authorized representative's letter of July 26, 2018, requesting a special actuarial factor to be used to value certain gifts made by Taxpayer during her lifetime.

The facts and representations are as follows: Taxpayer was born on Date 1. Taxpayer is the income beneficiary of three trusts. On Date 2, Taxpayer utilized the disclaimer provisions expressly provided in the three trusts and disclaimed her life estates. At the time Taxpayer disclaimed, Taxpayer had been medically diagnosed as suffering from cancer and was in hospice care. Taxpayer's medical prognosis was that she was terminally ill and that there was at least a fifty percent probability that Taxpayer would die within one year of Date 2. Taxpayer died five days later, Date 3.

The representatives of Taxpayer's estate now request a ruling pursuant to § 25.2512-5(d) (4) of the Gift Tax Regulations and § 25.7520-3(b)(3) of the Procedure and Administration Regulations for the applicable actuarial factor to be used in valuing the Date 2 disclaimers of the life estate interests.

Section 25.2512-5(a) generally provides that except as otherwise provided in § 25.2512-5(b) and § 25.7520-3(b), the fair market value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift, is the present value of the interests determined under § 25.2512-5(d).

Section 25.2512-5(d)(1) provides that if the valuation date for the gift is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversions transferred after April 30, 1999, is the present value of such interest determined under § 25.2512-5(d)(2) and by use of standard or special § 7520 actuarial factors.

Section 25.2512-5(d)(2)(iii) provides generally that if the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable § 7520 interest rate and term-of-years or life interest period).

Section 25.2512-5(d)(4) provides that if a special actuarial factor is required, the Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable facts, and a copy of the will, trust, or other relevant documents.

Section 25.7520-1(a)(1) provides that except as otherwise provided in this section and § 25.7520-3 (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of gifts made after April 30, 1999, the fair market value of annuities, interests for life or for a term of years (including unitrust interests), remainders, and reversions is their present value determined under this section.

Section 25.7520-1(b) provides generally that valuation under § 7520 consists of an interest rate component and a mortality component.

Section 25.7520-3(b)(3) provides that except as provided in § 25.7520-3(b)(3)(ii), the mortality component prescribed under § 7520 may not be used to determine the present value of an annuity, income interest, remainder interest, or reversionary interest if an individual who is a measuring life dies or is terminally ill at the time the gift is completed. For purposes of this paragraph, an individual who is known to have an incurable illness or other deteriorating physical condition is considered terminally ill if there is at least a 50 percent probability that the individual will die within 1 year. However, if the individual survives for eighteen months or longer after the date the gift is completed, that individual shall be presumed to have not been terminally ill at the date the gift was completed unless the contrary is established by clear and convincing evidence.

In the present case, Taxpayer disclaimed her life estate interests in three trusts on Date 2. The disclaimer constituted completed gifts to the owners of the remainder interests in the trusts. At the time the gifts were made, Taxpayer had been diagnosed as being terminally ill with at least a fifty percent probability that she would die within one year of Date 2. Taxpayer died on Date 3. Because Taxpayer was terminally ill within the meaning of § 25.7520-3(b)(3) at the time of the Date 2 gifts, the mortality component prescribed under § 7520 for ordinary life estate interests may not be used to determine the present value of the life estate interests dislcaimed by Taxpayer on Date 2. Thus, an actuarial factor of .00043 must be used in valuing the gifts.

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.

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
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes