

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:

In Re: Ruling Request

Refer Reply To:
CC:PSI:B04
PLR-114637-14

Date:
July 14, 2014

Legend:

| | |
|----------|---|
| Taxpayer | = |
| Year | = |
| X | = |

Dear :

This letter responds to your authorized representative's letter of March 12, 2014, requesting a ruling under § 2642(g) that Taxpayer substantially complied with the requirements of § 2632(a) to allocate generation-skipping transfer (GST) exemption to two trusts.

The facts submitted and the representations made are as follows. In Year, Taxpayer made gifts with a total reported value of \$X to two trusts with GST tax potential. Taxpayer retained a tax professional to prepare her Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, for Year. In preparing the Form 709, the tax professional indicated that \$X of Taxpayer's available GST exemption was no longer available and reported the allocation of this exemption on the wrong line of the Form 709.

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 **2631(a)** provides that for purposes of determining the inclusion ratio, every individual has GST exemption amount which the individual (or his executor) can allocate 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 2631(c) provides that for purposes of § 2631(a), the GST exemption amount for any calendar year is equal to the basic exclusion amount under § 2010(c) for such calendar year.

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)(2) provides that for purposes of § 2632(c)(1), the unused portion of an individual's GST exemption is that portion of such exemption which has not previously been -- (A) allocated by such individual, (B) treated as allocated under § 2632(b) with respect to a direct skip occurring during or before the calendar year in which the indirect skip is made, or (C) treated as allocated under paragraph (c)(1) with respect to a prior indirect skip.

Section 26.2632-1(b)(4)(i) of the Generation-Skipping Transfer Tax Regulations provides in part 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.

Section 2642(g)(2) provides that an allocation of GST exemption under § 2632 that demonstrates an intent to have the lowest possible inclusion ratio with respect to a transfer or a trust shall be deemed to be an allocation of so much of the transferor's unused GST exemption as produces the lowest possible inclusion ratio. In determining whether there has been substantial compliance, all relevant circumstances are to be taken into account, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Secretary deems relevant.

In this case, based upon the facts submitted and the representations made, we conclude that the Form 709 contains sufficient information to constitute substantial compliance under § 2642(g)(2) with the requirements of § 2632(a) to allocate \$X of Taxpayer's GST exemption to the transfers to the trusts in Year.

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) 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)

Enclosure:
Copy for § 6110 purposes