

Internal Revenue Service

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Department of the Treasury

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Washington, DC 20044

Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:4 - PLR-119556-99

Date:

May 25, 2000

Re:

Legend:

Donor	=
J	=
K	=
L	=
M	=
L Trust	=
Date 1	=
Date 2	=
Date 3	=
Bank	=
State	=

Dear :

This is in response to your letter of December 1, 1999, requesting a ruling concerning the application of section 2601 of the Internal Revenue Code to a proposed renunciation of interests in a trust established for the benefit of L.

According to the facts submitted, Donor, on Date 1, prior to September 25, 1985, executed a single trust agreement establishing four irrevocable trusts for the primary benefit of each of Donor's four children, J, K, L, and M. The L Trust was established for the benefit of L. K and Bank were named as Trustees.

Under Article 2.2 of the trust agreement, the net income of each trust is to be paid to the particular child of Donor for whom the trust was created. Following the death of the child of Donor, the income of the deceased child's trust is to be paid to the issue of the deceased child who are living during the duration of the trust, by right of representation; or if at any time there are no such living issue, to the issue of the Donor who are living during the duration of the trust, by right of representation. All distributions of income are to be paid in quarterly installments. Any income which is accrued but unpaid at the death of a beneficiary is to be paid to the next succeeding beneficiary or beneficiaries.

PLR-119556-99

Article 2.3 provides that the trustees may pay portions of the principal of a trust to or for the benefit of any income beneficiary of any one of the four trusts or any member of such income beneficiary's immediate family if the trustees determine that such payment is reasonably necessary to enable the beneficiary to meet the expenses of any unexpected emergency such as prolonged illness, accidental injury or other such calamity. With regard to making such principal distributions, no child of the Donor while acting as a trustee may make any decision respecting himself or any member of his immediate family.

Under Article 2.4, each of the four trusts terminate on the death of the survivor of Donor's four children. On termination, the remaining property of each trust is to then be distributed outright in equal shares per capita to all of Donor's grandchildren living at such time and by right of representation to the issue of any of the Donor's grandchildren who are deceased leaving issue surviving.

Article 3.4 provides that whenever income or principal is to be paid to a minor beneficiary, or to a legally incompetent adult beneficiary, it may be disposed of as determined by the trustees: (a) by payment directly to the beneficiary, (b) by the trustees themselves expending the same for the beneficiary, or (c) by payment to a relative of the beneficiary, whether guardian of the estate or person or both. The trustees may at the same time employ one or more of the methods specified; and they are not required to employ consistently any one or another of such methods.

Under Article 4.4, the trusts are to be construed and interpreted in accordance with the laws of State, the state where Donor resides and the trust assets have been delivered and accepted.

It is represented that no additions have been made to L Trust since September 25, 1985.

L died on Date 2, without issue. L was survived by his three siblings, J, K, and M, who are still living. In addition, nine grandchildren of Donor are presently living, all of whom are adults. There are presently no living issue of deceased grandchildren of Donor. Upon the death of L, pursuant to the terms of Article 2.2 of the trust agreement, the income of L Trust became payable in equal shares to J, K, and M.

At the present time, J, K, and M propose to renounce their income and principal interests in L Trust. The State District Court having jurisdiction over the matter, on Date 3, issued its order that, "the renunciation by J, K, and M of all their interests in the subject trust will accelerate the remainder interests in the trust possessed by the nine grandchildren of the donor...who shall, upon the occurrence of such renunciation, become entitled in equal shares to all of the remaining property of the subject trust."

The following ruling is requested:

PLR-119556-99

The termination of L Trust as a result of the proposed renunciations and the distribution to Donor's grandchildren will not be subject to GST tax.

Section 2601 imposes a generation-skipping transfer (GST) tax on every generation-skipping transfer. Section 2611 defines the term "generation-skipping transfer" to mean (1) a taxable distribution, (2) a taxable termination, and (3) a direct skip.

Section 2612(b) defines the term "taxable distribution" to mean any distribution from a trust to a skip person (other than a taxable termination or a direct skip). Section 2612(a)(1)(A) provides that a taxable termination occurs when an interest in a trust terminates, such as by death and, thereafter, only skip persons have an interest in the trust property. Section 2612(c) provides that the term "direct skip" means a transfer that is subject to the gift tax or the estate tax of an interest in property to a skip person.

Section 2613(a)(1) defines the term "skip person" as including a natural person assigned to a generation that is two or more generations below the generation assignment of the transferor.

Under § 1433(b)(2)(A) of the Tax Reform Act of 1986 and § 26.2601-1(b)(1)(i) of the Generation-Skipping Transfer Tax Regulations, the GST tax provisions do not apply to any generation-skipping transfer under a trust (as defined in § 2652(b)) that was irrevocable on September 25, 1985. However, this exemption does not apply to additions (actual or constructive) that are made to the trust after September 25, 1985. In addition, any modification of a trust instrument that results in a change to the quality, value, or timing of any beneficial interest in the trust, will cause the trust to lose exempt status.

In the present case, you represent that, as a result of the proposed renunciations by Donor's children J, K, and M, the remainder interests in L Trust will be accelerated under local law and L Trust will terminate. You also represent that upon termination, the L Trust assets will be distributed under State law, to Donor's nine living grandchildren. Each grandchild will receive an equal one-ninth share.

Based on the facts presented and representations made by the Taxpayer, we conclude that assuming the termination of L Trust as a result of J, K, and M's renunciations, and the distributions to Donor's grandchildren are consistent with applicable State law, the termination of L Trust as a result of the proposed renunciations by J, K, and M, and the distribution to Donor's grandchildren will not be subject to GST tax.

The ruling contained in this letter is 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

PLR-119556-99

the material submitted in support of the request for the ruling, it is subject to verification on examination.

Except as we have specifically ruled herein, we express no opinion as to the consequences of this transaction under the cited provisions or under any other provisions of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely yours,
Assistant Chief Counsel
(Pastthroughs and Special Industries)
By: George Masnik, Branch Chief
Branch 4

Enclosures:

Copy for section 6110 purpose
Copy of letter