

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Date of Communication: Not Applicable

Person To Contact: \_\_\_\_\_, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B04  
PLR-110328-05  
Date: SEPTEMBER 06, 2005

In Re:

**LEGEND:**

- Donor =
- School =
- Child 1 =
- Child 2 =
- Child 3 =
- Grandchild 1 =
- Grandchild 2 =
- Grandchild 3 =
- Grandchild 4 =
- Grandchild 5 =
- Grandchild 6 =
- SchoolYear 1 =

Dear \_\_\_\_\_ :

This is in response to your letter dated February 15, 2005, in which you requested rulings concerning the gift and generations-skipping transfer (GST) tax consequences of the proposed transaction described below.

Donor has three children, Child 1, Child 2, and Child 3. Child 1 has two children, Grandchild 1 and Grandchild 2. Child 2 has 2 children, Grandchild 3 and Grandchild 4. Child 3 has two children, Grandchild 5 and Grandchild 6.

Grantor proposes to enter into an arrangement to prepay tuition payments for Grandchildren 1-6 directly to School for School Year 1 and for multiple years thereafter. School is an educational organization described in § 170(b)(1)(A)(ii) of the Internal Revenue Code.

Donor proposes to enter into a separate written agreement with School with respect to each of Grandchild 1-6. Under the terms of each agreement, Donor agrees to prepay the total annual tuition for the respective Grandchild for each grade level through graduation (grade 12.) The amount to be paid under each agreement is set forth on a schedule attached to the agreement and is determined based on the current tuition rates charged by School. The agreements provide that the tuition payments are in payment of tuition for the respective Grandchild through the completion of Grade 12. Under the agreement, the Donor acknowledges that tuition may increase in subsequent years and the balance due after the application of the prepayment for that year will be paid by the Donor, or the parents of the respective grandchild (who will sign a consent and joinder.) The agreements provide that the tuition payments are non-refundable, and once paid become the sole property of School. Finally, the prepayment does not afford the respective grandchild any additional rights or privileges over any other student, does not guarantee enrollment, and the School expressly reserves all rights under its standards policies and procedures.

Donor requests the following rulings:

1. The prepayment of tuition by Donor directly to School will constitute a qualified transfer excluded from the gift tax under § 2503(e).
2. The prepayment of tuition by Donor directly to School will not constitute a generation-skipping transfer by reason of §2611(b)(1)

Section 2503(e)(1) provides that any "qualified transfer" shall not be treated as a transfer of property by gift. Under § 2503(e)(2)(A), a qualified transfer includes:

any amount paid on behalf of an individual --

(A) as tuition to an educational organization described in § 170(b)(1)(A)(ii) for the education or training of such individual.

\* \* \*

Section 25.2503-6(b)(2) of the Gift Tax Regulations provides that the tuition exclusion applies to tuition expenses of full-time or part-time students paid directly to the qualifying educational organization providing the education. The exclusion is available only for amounts paid as direct tuition costs. Section 25.2503-6(c), Example 2, considers a situation where the donor, A, transfers \$ 100,000 to a trust the terms of which require the trustee to use the trust funds to pay tuition expenses for A's grandchildren. The example concludes that A's transfer to the trust is a completed gift for gift tax purposes and is not a direct transfer to an educational organization and does not qualify for the unlimited exclusion under section 2503(e).

Section 2601 imposes a generation-skipping transfer tax on any transfer by a "transferor" to a skip person.

Section 2611(b)(1) provides that the term "generation-skipping transfer" does not include any transfer which, if made inter vivos by an individual, would not be treated as a taxable gift by reason of §2503(e).

In this case, Grandchildren 1-6 are currently attending School. Donor will pay the amounts to School in payment of specified tuition costs with respect to designated grandchildren. The payments are not subject to refund and will be forfeited in the event the respective grandchild ceases to attend School. Thus, the payments are made directly to an educational organization to be used exclusively for the payment of specified tuition costs for designated individuals. Accordingly, the payments constitute an "amount paid on behalf of an individual as tuition to an educational organization . . . for the education or training of such individual", for purposes of section 2503(e)(2). This is in contrast to the situation presented in section 25.2503-6(c), Example 2, where the payments were not made to an educational organization in payment of specific tuition costs for a designated individual.

Accordingly, we conclude:

1. The prepayment of tuition by Donor directly to School, as described above, constitute qualified transfers that are excluded from the gift tax under § 2503(e);
2. Under § 2611(b)(1), the prepayment of tuition by Donor directly to School, as described above, will not constitute generation-skipping transfers.

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

Except as specifically ruled herein, we express no opinion on the federal tax consequences of the transaction under the cited provisions or under any other provisions of the Code.

The 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.

Sincerely,

George L. Masnik  
Chief, Branch 4  
Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosure:  
Copy for section 6110 purposes

cc: