

## Authors' Highlights

### Author's Note

On July 4, 2025, President Trump signed into law PL 119-21, popularly known as the “One Big Beautiful Bill Act” (OBBBA). While OBBBA made numerous changes to the tax code, there was only one change to the transfer taxes of Subtitle B: an increase in the basic exclusion amount to \$15,000,000, indexed for inflation after 2026. I.R.C. § 2010(c)(3)(A). The legislation states the effective date “*apply to estates of decedents dying and gifts made after December 31, 2025.*”

Since the OBBBA was passed shortly before this edition (Fall 2025) went into production, the text in the first edition of 2026 will reflect the OBBBA changes.

### Volume 1

#### § 3:156 Bona fide business arrangements exception

Added *Huffman v. Commissioner* to note 3. In *Huffman* the Tax Court determined an option agreement did not meet the I.R.C. § 2703(b) exception, even though it was a bona fide business arrangement and was for full and adequate consideration, since it was not comparable to similar arms-length arrangements. The option agreement between parents and child differed from past arrangements in that the child's rights were exercisable at any time, not just at death or the receipt of another offer to purchase, and the option agreement was not transferable without the parents' consent

#### § 4:8 Timing of election—Extension of time to make election

Added to footnote 1 one private letter ruling allowing an extension of time to elect alternative valuation.

#### § 6:201 Election required— Failure to make QTIP election

Added to footnote 4 three 2025 private letter rulings permitting an extension of time to make a QTIP election after the estate tax return was filed. Additionally, the section includes a new paragraph on a 2025 private letter ruling denying an extension of time since the request was to change a valid QTIP election amount.

#### § 6:231 Procedure once surviving spouse becomes a U.S. citizen

Added a citation to note 7 to a 2023 private letter ruling allowing a 120-day extension of time to file notice and certification of U.S. citizenship on Form 706-QDT.

#### § 7:14 Extension of time to make portability election for decedents dying after December 31, 2010

Added citations to footnote 1 of several 2025 private letter rulings allowing extensions of time to make an election under I.R.C. § 2010(c)(5)(A) permitting surviving spouse to utilize decedent's deceased spousal unused exclusion (DSUE) amount. Also, one private letter ruling was denied since the surviving spouse had died before the request was filed. The Service deemed this to be using hindsight to make the request, which the Regs. equate to a lack of good faith.

#### § 8:7 Individuals who expatriate on or after June 17, 2008

Edited material to reflect the new regulations added by TD 10027.

#### § 10:4 Executor liable for decedent's unpaid taxes: Case study

Added *United States v. Lipson* to note 1. In *Lipson* the United States obtained a judgment to collect estate taxes from the mother's estate. The judgment imposed liability on both the successor personal representative and the surviving spouse of the original personal representative under 31 U.S.C. § 3713(b). The spouse's liability was limited to one-half of the couple's community property interest.

#### § 11:12 Closing letters issued only on request

Changed note 1 to reflect final Reg. § 300.13 which adds a \$56 fee for issuing an estate tax closing letter.

**Volume 2 (starts at Chapter 14)**

**§ 14:14 Mergers and division of trusts—Modification of trusts: illustrative Cases**

Added new illustration based on a 2025 private letter ruling determining the division of a QTIP trust into two separate trusts (Trust 1 and Trust 2) did not alter the QTIP status of either subsequent trust. Also, the disclaimer of the surviving spouse of the QTIP interests in Trust 1 would trigger gifts under I.R.C. § 2519, but did not in Trust 2. Finally, the division did not subject the original marital trust to any income taxation since the division was allowed under the trust documents.

**§ 17:141 Shares of stocks and bonds of closely held corporations-discounted cash flow v. net asset valuation**

Added *Pierce v. Commissioner* to note 1. In *Pierce*, the Tax Court used the discounted cash flow method to value S Corporation stock transferred by the taxpayer to irrevocable trusts.

**§ 19:43 Extension of time to apply the GST exemption amount**

Added to footnote 7 several 2025 private letter rulings permitting an extension of time to allocate the GST exemption amount.

**§ 19:45 Election out of automatic allocation rules: Election out statement**

Added to note 3 several private letter rulings permitting an extension of time to opt out of the GST automatic allocation rules.

**§ 19:52 Severance of GST trusts for tax purposes—Extension of time to allocate GST exemption and make qualified severance: case study**

Added to note 1, a private letter ruling granting an extension of time to sever a trust into GST exempt and non-GST exempt trusts when the attorneys' failure to advise of the need for severance caused the oversight.

**§ 19:68 Modifications to “grandfathered” exempt trusts: termination of trust**

Added to note 1, a private letter ruling providing that the termination of a trust created before September 25, 1985, would not cause the trust to be subject to the GST tax, the trust or beneficiaries to be treated as making taxable gifts, or any income tax consequences.

**§ 19:73. Modifications to “grandfathered” exempt trusts: settlement agreements**

Added to note 1 a private letter ruling providing that there was no loss of grandfathered GST exemption for settlement agreement that permitted (1) an extension of the termination date less than 21 years from the current date; (2) early termination of one of the trusts based upon the majority vote of the distributees of all the trusts; (3) trustees to make discretionary distributions by considering the best interests of the beneficiaries in addition to the existing health, education, maintenance, and support standard; and (4) elimination of the provision requiring the trustees forced distribution).

**§ 19:93 No Loss of GST Exemption due to Creation of Testamentary GPA**

Added reference to a private letter ruling providing no loss of exempt status for nonjudicial agreement adding testamentary general power of appointment.