

**§ 25.2516-1**

**26 CFR Ch. I (4-1-02 Edition)**

the entirety. Under the law of the jurisdiction, both spouses are entitled to share equally in the income from, or the enjoyment of, the property, but neither spouse, acting alone, may defeat the right of the survivor of them to the whole of the property. The fair market value of the property at the time of X's death was \$100,000 and this amount is the consideration which X furnished toward the creation of the tenancy. In 1955, at which time the fair market value of the property was the same as at the time of X's death, improvements of \$50,000 were made to the property, of which Y furnished \$40,000 out of his own funds and Z furnished \$10,000 out of her own funds. Y did not elect to treat his transfer to the tenancy as resulting in the making of a gift in 1955. In 1956 the property was sold for \$300,000 and Y and Z each received \$150,000 of the proceeds. At the time the property was sold Y and Z were 45 and 40 years of age, respectively, on their birthdays nearest the date of sale. The value of the gift made by Y to Z is \$19,942, computed as follows:

Amount determined under principles set forth in § 25.2515-3:

\$50,000 (consideration not treated as gift in year furnished)+\$150,000 (total consideration furnished)×\$300,000 (proceeds of termination)=\$100,000 (proceeds of termination to which principles set forth in § 25.2515-3 apply)

\$40,000 (consideration furnished by H and not treated as gift)+\$50,000 (total consideration not treated as gift)×\$100,000=\$80,000

Amount determined under principles set forth in paragraph (b) of this section:

\$300,000 (total proceeds of termination)—  
\$100,000 (proceeds to which principles set forth in § 25.2515-3 apply)=\$200,000 (proceeds to which principles set forth in paragraph (b) apply) 0.44971 (factor for Y's latest)×\$200,000=\$89,942

Amount of gift:

Amount determined under § 25.2515-3 .....	\$80,000
Amount determined under paragraph (b) .....	89,942
<b>Total .....</b>	<b>169,942</b>
Less: Proceeds received by Y .....	150,000
<b>Amount of gift made by Y to Z .....</b>	<b>19,942</b>

[T.D. 6334, 23 FR 8904, Nov. 15, 1958, as amended by T.D. 7238, 37 FR 28732, Dec. 29, 1972]

**§ 25.2516-1 Certain property settlements.**

(a) Section 2516 provides that transfers of property or interests in property made under the terms of a written agreement between spouses in settlement of their marital or property rights are deemed to be for an adequate and full consideration in money or money's worth and, therefore, exempt

from the gift tax (whether or not such agreement is approved by a divorce decree), if the spouses obtain a final decree of divorce from each other within two years after entering into the agreement.

(b) See paragraph (b) of § 25.6019-3 for the circumstances under which information relating to property settlements must be disclosed on the transferor's gift tax return for the "calendar period" (as defined in § 25.2502-1(c)(1)) in which the agreement becomes effective.

[T.D. 6334, 23 FR 8904, Nov. 15, 1958, as amended by T.D. 7238, 37 FR 28732, Dec. 29, 1972; T.D. 7910, 48 FR 40375, Sept. 7, 1983]

**§ 25.2516-2 Transfers in settlement of support obligations.**

Transfers to provide a reasonable allowance for the support of children (including legally adopted children) of a marriage during minority are not subject to the gift tax if made pursuant to an agreement which satisfies the requirements of section 2516.

**§ 25.2518-1 Qualified disclaimers of property; in general.**

(a) *Applicability*—(1) *In general.* The rules described in this section, § 25.2518-2, and § 25.2518-3 apply to the qualified disclaimer of an interest in property which is created in the person disclaiming by a transfer made after December 31, 1976. In general, a qualified disclaimer is an irrevocable and unqualified refusal to accept the ownership of an interest in property. For rules relating to the determination of when a transfer creating an interest occurs, see § 25.2518-2(c) (3) and (4).

(2) *Example.* The provisions of paragraph (a)(1) of this section may be illustrated by the following example:

*Example.* W creates an irrevocable trust on December 10, 1968, and retains the right to receive the income for life. Upon the death of W, which occurs after December 31, 1976, the trust property is distributable to W's surviving issue, *per stirpes*. The transfer creating the remainder interest in the trust occurred in 1968. See § 25.2511-1(c)(2). Therefore, section 2518 does not apply to the disclaimer of the remainder interest because the transfer creating the interest was made prior to January 1, 1977. If, however, W had caused the gift to be incomplete by also retaining the power to designate the person or persons to