

*Example 10. Simultaneous termination of interests of more than one beneficiary.* T establishes an irrevocable trust for the benefit of T's child, C, T's grandchild, GC, and T's great-grandchild, GGC. Under the terms of the trust, income and principal may be distributed to any or all of the living beneficiaries at the discretion of the trustee. Upon the death of C, the trust property is to be distributed to GGC if then living. If C is survived by both GC and GGC, both C's and GC's interests in the trust will terminate on C's death. However, because both interests will terminate at the same time and as a result of one event, only one taxable termination occurs.

*Example 11. Partial taxable termination.* T creates an irrevocable trust providing that trust income is to be paid to T's children, A and B, in such proportions as the trustee determines for their joint lives. On the death of the first child to die, one-half of the trust principal is to be paid to T's then living grandchildren. The balance of the trust principal is to be paid to T's grandchildren on the death of the survivor of A and B. If A predeceases B, the distribution occurring on the termination of A's interest in the trust is a taxable termination and not a taxable distribution. It is a taxable termination because the distribution is a distribution of a portion of the trust that occurs as a result of the death of A, a lineal descendant of T. It is immaterial that a portion of the trust continues and that B, a person other than a skip person, thereafter holds an interest in the trust.

*Example 12. Taxable distribution.* T establishes an irrevocable trust under which the trust income is payable to T's child, C, for life. When T's grandchild, GC, attains 35 years of age, GC is to receive one-half of the principal. The remaining one-half of the principal is to be distributed to GC on C's death. Assume that C survives until GC attains age 35. When the trustee distributes one-half of the principal to GC on GC's 35th birthday, the distribution is a taxable distribution because it is a distribution to a skip person and is neither a taxable termination nor a direct skip.

*Example 13. Exercise of withdrawal right as taxable distribution.* The facts are the same as in *Example 12*, except GC holds a continuing right to withdraw trust principal and after one year GC withdraws \$10,000. The withdrawal by GC is not a taxable termination because the withdrawal does not terminate C's interest in the trust. The withdrawal by GC is a taxable distribution to GC.

*Example 14. Interest in trust.* T establishes an irrevocable trust under which the income is to be paid to T's child, C, for life. On the death of C, the trust principal is to be paid to T's grandchild, GC. Because C has a present right to receive income from the trust, C has an interest in the trust. Because

GC cannot currently receive distributions from the trust, GC does not have an interest in the trust.

*Example 15. Support obligation.* T establishes an irrevocable trust for the benefit of T's grandchild, GC. The trustee has discretion to distribute property for GC's support without regard to the duty or ability of GC's parent, C, to support GC. Because GC is a permissible current recipient of trust property, GC has an interest in the trust. C does not have an interest in the trust because the potential use of the trust property to satisfy C's support obligation is within the discretion of a fiduciary. C would be treated as having an interest in the trust if the trustee was required to distribute trust property for GC's support.

[T.D. 8644, 60 FR 66903, Dec. 27, 1995; 61 FR 29653, June 12, 1996]

#### § 26.2613-1 Skip person.

For the definition of *skip person* see § 26.2612-1(d).

#### § 26.2632-1 Allocation of GST exemption.

(a) *General rule.* Except as otherwise provided in this section, an individual or the individual's executor may allocate the individual's \$1 million GST exemption at any time from the date of the transfer through the date for filing the individual's Federal estate tax return (including any extensions for filing that have been actually granted). If no estate tax return is required to be filed, the GST exemption may be allocated at any time through the date a Federal estate tax return would be due if a return were required to be filed (including any extensions actually granted). If property is held in trust, the allocation of GST exemption is made to the entire trust rather than to specific trust assets. If a transfer is a direct skip to a trust, the allocation of GST exemption to the transferred property is also treated as an allocation of GST exemption to the trust for purposes of future GSTs with respect to the trust by the same transferor.

(b) *Lifetime allocations—(1) Automatic allocation to direct skips—(i) In general.* If a direct skip occurs during the transferor's lifetime, the transferor's GST exemption not previously allocated (unused GST exemption) is automatically allocated to the transferred property (but not in excess of the fair market value of the property on the date of