

**§ 25.2516-1**

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) $\times \$200,000=\$89,942$

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

[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 receive the trust principal at death, and, as a result, no transfer (within the meaning of § 25.2511-1(c)(2)) of the remainder interest was made at the time of the creation of the trust, section 2518 would apply to any disclaimer made after W's death with respect to an interest in the trust property.

(3) Paragraph (a)(1) of this section is applicable for transfers creating the interest to be disclaimed made on or after December 31, 1997.

(b) *Effect of a qualified disclaimer.* If a person makes a qualified disclaimer as described in section 2518(b) and § 25.2518-2, for purposes of the Federal estate, gift, and generation-skipping transfer tax provisions, the disclaimed interest in property is treated as if it had never been transferred to the person making the qualified disclaimer. Instead, it is considered as passing directly from the transferor of the property to the person entitled to receive the property as a result of the disclaimer. Accordingly, a person making a qualified disclaimer is not treated as making a gift. Similarly, the value of a decedent's gross estate for purposes of the Federal estate tax does not include the value of property with respect to which the decedent, or the decedent's executor or administrator on behalf of