



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[REG-163113-02]

RIN 1545-BB71

Estate, Gift, and Generation-skipping Transfer Taxes; Restrictions on Liquidation of an Interest

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws proposed regulations concerning the estate, gift and generation-skipping transfer (GST) tax treatment of lapses of liquidation rights in family-controlled entities, as well as the valuation of interests in family-controlled corporations and partnerships for estate, gift, and GST tax purposes. Specifically, the proposed regulations would have treated certain lapses of liquidation rights as transfers occurring at death. The proposed regulations also addressed the treatment of restrictions on liquidation and withdrawal in determining the value of transferred interests in family-controlled entities. This withdrawal affects certain transferors of interests in corporations and partnerships.

DATES: The notice of proposed rulemaking published August 4, 2016 (81 FR 51413) is withdrawn as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John D. MacEachen, (202) 317-6859 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 2704 of the Internal Revenue Code provides special rules for purposes of subtitle B (relating to estate, gift, and GST taxes). Under section 2704(a), a lapse of certain voting or liquidation rights is treated as a transfer of an amount equal to the excess of the fair market value of all interests held by the transferor, determined as if the voting or liquidation rights were nonlapsing, over the fair market value of such interests after the lapse. In addition, under section 2704(b) certain restrictions on liquidation are disregarded in determining the fair market value of the transferred interest. Section 2704(b)(4) authorizes the Secretary to provide by regulation that other restrictions may be disregarded if the restriction has the effect of reducing the value of an interest transferred to a member of the transferor's family for estate, gift, or GST tax purposes but does not ultimately reduce the value of such interest to the transferee.

On August 4, 2016, the Treasury Department and the IRS published in the **Federal Register** (81 FR 51413) a notice of proposed rulemaking under section 2704 (REG-163113-02), relating to restrictions on the liquidation of an interest in a corporation or a partnership. The proposed regulations sought to amend the existing regulations: (1) to address what constitutes control of a limited liability company or other entity or arrangement that is not a corporation, partnership, or limited partnership; (2) to address the effect of deathbed transfers that result in the lapse of a liquidation right; (3) to clarify the treatment of a transfer that results in the creation of an assignee interest; (4) to address the effect of restrictions created by state law; (5) to address restrictions on withdrawal from an entity and the liquidation of an interest in an entity; and (6) to address the effect of insubstantial interests held by persons who are not

members of the family.

The Treasury Department and the IRS received numerous written comments on the proposed regulations from interested parties, and held a public hearing on December 1, 2016.

Executive Order 13789, issued on April 21, 2017, instructs the Secretary of the Treasury (the Secretary) to review all significant tax regulations issued on or after January 1, 2016, and to take concrete action to alleviate the burdens of regulations that (i) impose an undue financial burden on U.S. taxpayers; (ii) add undue complexity to the Federal tax laws; or (iii) exceed the statutory authority of the IRS. E.O. 13789 further instructs the Secretary to submit to the President within 60 days an interim report that identifies regulations that meet these criteria. Notice 2017-38 (2017-30 I.R.B. 147 (July 24, 2017)) included the proposed regulations in a list of eight regulations identified by the Secretary in the interim report as meeting at least one of the first two criteria specified in E.O. 13789.

E.O. 13789 further instructs the Secretary to submit to the President by September 18, 2017, a final report that recommends specific actions to mitigate the burden imposed by regulations identified in the interim report. The Secretary published this final report in the **Federal Register** (82 FR 48013), recommending a complete withdrawal of the proposed regulations to mitigate their potential burden. To implement the Secretary's recommendation, the Treasury Department and the IRS, are withdrawing the proposed regulations.

List of Subjects in 26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-163113-02) that was published in the **Federal Register** on August 4, 2016 (81 FR 51413) is withdrawn.

Kirsten Wielobob

Deputy Commissioner for Services and Enforcement

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