

Notice of Proposed Rulemaking and Notice of Public Hearing

Lifetime Charitable Lead Trusts

REG-100291-00

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: These proposed regulations relate to the definitions of a guaranteed annuity interest and a unitrust interest for purposes of the income, gift, and estate tax charitable deductions. The proposed regulations will affect taxpayers who make transfers to charitable lead trusts. The purpose of these proposed regulations is to restrict the permissible terms for charitable lead trusts in order to eliminate the potential for abuse. This document also provides notice of a public hearing.

DATES: Written and electronic comments must be received by June 19, 2000. Outlines of topics to be discussed at the public hearing scheduled for June 29, 2000, must be received by June 8, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-100291-00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-100291-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.gov/tax_regs/reglist.html. The public hearing will be held in room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Scott S. Landes, (202) 622-3090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy

SUPPLEMENTARY INFORMATION:

Background

In general, if interests in the same property are transferred for both charitable and noncharitable purposes, the charitable interest will qualify for the charitable deduction for federal income, gift, and estate tax purposes only if the interest is in one of certain prescribed forms. If the charitable interest is not a remainder interest, sections 170, 2522, and 2055 of the Internal Revenue Code (Code) require that the charitable interest be in the form of either a guaranteed annuity interest or a fixed percentage of the annual fair market value of the property (unitrust interest). In addition, an income tax charitable deduction is available only if the grantor is treated as the owner of the entire trust under subpart E, part I of subchapter J of the Code.

The requirement that a nonremainder interest passing to charity be in the form of a guaranteed annuity interest or a unitrust interest was added to the Code by the Tax Reform Act of 1969. That Act also added the requirement that a remainder interest passing to charity must generally be in the form of a charitable remainder unitrust or annuity trust or a pooled income fund. The statutory provisions for charitable remainder trusts and pooled income funds specifically state the permissible terms for these entities. Section 664(d)(1)(A) and (d)(2)(A) provide that the permissible term for a charitable remainder trust is a period of years (not to exceed 20 years) or the life or lives of individuals who are living at the creation of the trust. Similarly, section 642(c)(5)(A) provides that the permissible term for the noncharitable income interest in a pooled income fund is the life of one or more beneficiaries living at the time of the transfer.

Unlike the statutory provisions for charitable remainder trusts and pooled income funds, neither the statute nor the legislative history sets forth the permissible term for which a charitable guaranteed annuity interest or a unitrust interest must be paid. Rather, the permissible term for these interests is set forth in the regulations as either a specified term of years, or

the life or lives of an individual or individuals, each of whom must be living at the date of the transfer and can be ascertained at such date.

The IRS and the Treasury Department are aware of situations in which taxpayers attempt to take advantage of the regulations by using an unrelated individual's measuring life, as the term of a charitable lead trust, to artificially inflate the charitable deduction. Taxpayers select as a measuring life an individual who is seriously ill but not "terminally ill" within the meaning of the section 7520 regulations. Because the individual is not "terminally ill" as defined in the regulations, the charitable interest is valued based on the actuarial tables. These tables take into account the life expectancies of all individuals of the same age as the individual who is the measuring life, even though such individual has been carefully chosen because he or she likely will not live to an average life expectancy. When the seriously ill individual dies prematurely, the amount the charity actually receives will be significantly less than the amount on which the gift or estate tax charitable deduction was based. Conversely, the amount of the actual transfer to the remainder beneficiaries will be significantly greater than the amount subject to gift or estate tax.

These charitable lead trusts are being marketed in a package which includes the name of a seriously ill individual and access to the individual's medical records. A token payment is made to the ill individual who is serving as a measuring life. Sometimes the individual is led to believe that a charitable organization interested in the individual's particular illness will receive some benefit from the transaction. In the words of one author, "[t]his technique (which is not strictly speaking wealth transfer planning for the terminally ill, but rather wealth transfer planning *using* the terminally ill) falls somewhere between ghoulish and grotesque." Marketing schemes that exploit the misfortunes of some for the benefit of others are contrary to public policy.

The IRS and the Treasury Department believe that this scheme is abusive and frustrates the Congressional purpose in limiting the charitable deduction to specific types of split-interest transfers. Congress enacted the provisions regard-

ing guaranteed annuity interests, unitrust interests, charitable remainder trusts, and pooled income funds in order to ensure that the amount the taxpayer claims as a charitable deduction reasonably correlates to the amount ultimately passing to the charitable organization. H.R. Rep. No. 413 (Part 1), 91st Cong., 1st Sess. 61 (1969); S. Rep. No. 552, 91st Cong., 1st Sess. 93 (1969). In this scheme, taxpayers choose a measuring life that ensures the amount passing to charity will be substantially less than the allowable charitable deduction. This kind of adverse selection of an unrelated measuring life to artificially inflate the charitable deduction is contrary to Congressional intent.

EXPLANATION OF PROVISIONS

Under the proposed regulations, the permissible term for guaranteed annuity interests and unitrust interests is either a specified term of years, or the life of certain individuals living at the date of the transfer. Only one or more of the following individuals may be used as measuring lives: the donor, the donor's spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable guaranteed annuity interest or unitrust interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a guaranteed annuity or unitrust interest even if the governing instrument contains a "savings clause" intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust. For example, a guaranteed annuity or unitrust interest that will terminate on the earlier of 30 years or 21 years after the death of the last survivor of the descendants of any grandparent of the donor living on the date of the creation of the interest will be treated as payable for a specified term of years.

The proposed regulations will allow the use of an individual's measuring life when appropriate for estate planning purposes. Thus, the regulations permit the donor, the donor's spouse, or an individual who is an ancestor of the remainder

beneficiaries to be used as the measuring life. A transfer using the donor or the donor's spouse as the measuring life is a substitute for a testamentary disposition to the remainder beneficiaries. In other situations, the donor may desire to benefit an individual's heirs only after the death of the individual currently providing their support. For example, a donor may establish a charitable lead trust for the life of the donor's sibling with the sibling's children named as the remainder beneficiaries. A measuring life unrelated to the remainder beneficiaries is not appropriate for estate planning purposes and therefore is not permitted under the proposed regulations.

The proposed regulations apply to transfers to inter vivos charitable lead trusts made on or after April 4, 2000. In addition, the proposed regulations apply to transfers made pursuant to wills or revocable trusts where the decedent dies on or after April 4, 2000. Two exceptions from the application of the proposed regulations are provided in the case of transfers pursuant to a will or revocable trust executed on or before April 4, 2000. One exception is for a decedent who dies on or before the date that is 6 months after the date these regulations are published as final regulations without having republished the will (or amended the trust) by codicil or otherwise. The other exception is for a decedent who was on April 4, 2000, under a mental disability to change the disposition of the decedent's property, and either does not regain competence to dispose of such property before the date of death, or dies prior to the later of: 90 days after the date on which the decedent first regains competence, or 6 months after the date these regulations are published as final regulations without having republished the will (or amended the trust) by codicil or otherwise.

The IRS will not disallow the charitable deduction where the charitable interest is payable for the life of an individual, other than one permitted under the proposed regulations, if the interest is reformed into a lead interest payable for a specified term of years. The term of years must be determined by taking the factor for valuing the annuity or unitrust interest for the named individual's measuring life and identifying the term of years (rounded up to the next whole year) that corre-

sponds to the equivalent term of years factor for an annuity or unitrust interest. For example, in the case of an annuity interest payable for the life of an individual age 40 at the time of the transfer, assuming an interest rate of 7.4% under section 7520, the annuity factor from column 1 of Table S(7.4), contained in IRS Publication 1457, Book Aleph, for the life of an individual age 40 is 12.0587 (Publication 1457 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402). Based on Table B(7.4), contained in Publication 1457, Book Aleph, the factor 12.0587 corresponds to a term of years between 31 and 32 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 32 years. In the case of inter vivos transfers, a judicial reformation must be commenced prior to the later of: (1) the date that is 6 months after the date these regulations are published as final regulations; or (2) October 15th of the year following the year in which the transfer is made. In the case of testamentary transfers, a judicial reformation must be commenced prior to the later of: (1) the date that is 6 months after the date these regulations are published as final regulations; or (2) the date prescribed by section 2055(e)(3)(C)(iii). Any judicial reformation must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced.

An alternative to reformation may be available for any transfer made on or after April 4, 2000 and on or before the date that is 60 days after the date these regulations are published as final regulations. If a court, in a proceeding that is commenced on or before 6 months after these regulations are published as final regulations, declares the transfer null and void ab initio, the Service will treat such transfer in a manner similar to that described in section 2055(e)(3)(J).

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b)

of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these proposed regulations, and because these proposed regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the proposed regulations will be submitted to the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely (in the manner described in the ADDRESSES portion of this preamble) to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 29, 2000, at 10 a.m., room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit comments by June 19, 2000, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by June 8, 2000.

A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the dead-

line for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Scott S. Landes, Office of the Chief Counsel, IRS. Other personnel from the IRS and the Treasury Department participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, and 25 are proposed to be amended as follows:

PART 1 — INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding a new entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.170A-6 also issued under 26 U.S.C. 170(f)(4); 26 U.S.C. 642(c)(5). * * *

Par. 2. Section 1.170A-6 is amended as follows:

1. Paragraph (c)(2)(i)(A) is amended as follows:

a. In the first sentence, the comma is removed.

b. In the second sentence, the language “of years” is added after the word “term”, the language “an individual or individuals” is removed, and “certain individuals” is added in its place.

c. The third sentence is removed, and four new sentences are added in its place.

d. In the sentence beginning “For example, the amount”, the language “of years” is added after the word “term”, the language “an individual” is removed, and “the donor” is added in its place.

2. Paragraph (c)(2)(ii)(A) is amended as follows:

a. In the fifth sentence, the language “of years” is added after the word “term”, “an individual or individuals” is removed, and “certain individuals” is added in its place.

b. The last sentence is removed, and four new sentences are added in its place.

3. Paragraph (e) is amended by adding four sentences to the end of the paragraph.

4. The authority citation at the end of the section is removed.

The additions read as follows:

§1.170A-6 *Charitable contributions in trust.*

* * * * *

(c) * * *

(2) * * *

(i) * * * (A) * * * Only one or more of the following individuals may be used as measuring lives: the donor, the donor’s spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable guaranteed annuity interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a guaranteed annuity interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust. * * *

* * * * *

(ii) * * * (A) * * * Only one or more of the following individuals may be used as measuring lives: the donor, the donor’s spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable unitrust interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a unitrust interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust.

* * * * *

(e) *Effective date.* * * * In addition, the rule in paragraphs (c)(2)(i)(A) and (ii)(A) of this section that guaranteed annuity interests and unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals, applies to transfers made on or after April 4, 2000. If a transfer is made to a trust on or after April

4, 2000 that uses an individual other than one permitted in paragraphs (c)(2)(i)(A) and (ii)(A) of this section, the trust may be reformed to satisfy this rule. As an alternative to reformation, rescission may be available for a transfer made on or before the date that is 60 days after the date these regulations are published as final regulations. See § 25.2522(c)-3(e) of this chapter for the requirements concerning reformation or possible rescission of these interests.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 3. The authority citation for part 20 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 4. Section 20.2055-2 is amended as follows:

1. Paragraph (e)(2)(vi)(a) is amended as follows:

a. In the third sentence, the language “of years” is added after the word “term”, the language “an individual or individuals” is removed, and “certain individuals” is added in its place.

b. The fourth sentence is removed, and four new sentences are added in its place.

c. In the sentence beginning “For example, the amount”, the language “of years” is added after the word “term”, the language “an individual” is removed, and “the decedent’s spouse” is added in its place.

2. Paragraph (e)(2)(vii)(a) is amended as follows:

a. In the sixth sentence, the language “of years” is added after the word “term”, the language “of an individual or individuals” is removed, and “of certain individuals” is added in its place.

b. The last sentence is removed, and four new sentences are added in its place.

3. Paragraph (e)(3) is amended as follows:

a. The period at the end of paragraph (e)(3)(ii)(c) is removed, a comma is added and the word “and” is added after the comma.

b. A new paragraph (e)(3)(iii) is added.

The additions read as follows:
§ 20.2055-2 *Transfers not exclusively for charitable purposes.*

* * * * *

(e) * * *

(2) * * *

(vi) * * * (a) * * * Only one or more of the following individuals may be used as measuring lives: the donor, the donor's spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable guaranteed annuity interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a guaranteed annuity interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust. * * *

* * * * *

(vii) * * * (a) * * * Only one or more of the following individuals may be used as measuring lives: the donor, the donor's spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable unitrust interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a unitrust interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust.

* * * * *

(3) * * *

(iii) The rule in paragraphs (e)(2)(vi)(a) and (vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals, is generally effective in the case of transfers pursuant to wills and revocable trusts where the decedent dies on or after April 4, 2000. Two exceptions from the application of the rule in paragraphs (e)(2)(vi)(a) and (vii)(a) of this section are provided in the case of transfers pursuant to a will or revocable trust executed on or before April 4, 2000. One exception is for a decedent who dies on or before the

date that is 6 months after the date these regulations are published as final regulations without having republished the will (or amended the trust) by codicil or otherwise. The other exception is for a decedent who was on April 4, 2000, under a mental disability to change the disposition of the decedent's property, and either does not regain competence to dispose of such property before the date of death, or dies prior to the later of: 90 days after the date on which the decedent first regains competence, or 6 months after the date these regulations are published as final regulations without having republished the will (or amended the trust) by codicil or otherwise. If a guaranteed annuity interest or unitrust interest created pursuant to a will or revocable trust where the decedent dies on or after April 4, 2000, uses an individual other than one permitted in paragraphs (e)(2)(vi)(a) and (vii)(a) of this section, and the interest does not qualify for this transitional relief, the interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. For example, in the case of an annuity interest payable for the life of an individual age 40 at the time of the transfer, assuming an interest rate of 7.4% under section 7520, the annuity factor from column 1 of Table S(7.4), contained in IRS Publication 1457, Book Aleph, for the life of an individual age 40 is 12.0587 (Publication 1457 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402). Based on Table B(7.4), contained in Publication 1457, Book Aleph, the factor 12.0587 corresponds to a term of years between 31 and 32 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 32 years. A judicial reformation must be commenced prior to the later of the date that is 6 months after the date these regulations are published as final regulations, or the date prescribed by section 2055(e)(3)(C)(iii). Any judicial reformation must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if

effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before 6 months after these regulations are published as final regulations, declares any transfer made pursuant to a will or revocable trust where the decedent dies on or after April 4, 2000, and on or before the date that is 60 days after the date these regulations are published as final regulations, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(J).

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PART 25 — GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority citation for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 6. Section 25.2522(c)-3 is amended as follows:

1. Paragraph (c)(2)(vi)(a) is amended as follows:

a. In the third sentence, the language "of years" is added after the word "term", the language "a named individual or individuals" is removed, and "certain individuals" is added in its place.

b. The fourth sentence is removed, and four new sentences are added in its place.

c. In the sentence beginning "For example, the amount", the language "of years" is added after the word "term", the language "an individual" is removed, and "the donor" is added in its place.

2. Paragraph (c)(2)(vii)(a) is amended as follows:

a. In the sixth sentence, the language "of years" is added after the word "term", the language "an individual or individuals" is removed, and "certain individuals" is added in its place.

b. The last sentence is removed, and four new sentences are added in its place.

3. Paragraph (e) is amended by adding nine new sentences to the end of the paragraph.

The additions read as follows:

§ 25.2522(c)-3 *Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.*

* * * * *

(c) * * *

(2) * * *

(vi) * * * (a) * * * Only one or more of the following individuals may be used as measuring lives: the donor, the donor's spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable guaranteed annuity interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a guaranteed annuity interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust. * * *

* * * * *

(vii) * * * (a) * * * Only one or more of the following individuals may be used as measuring lives: the donor, the donor's spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable unitrust interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a unitrust interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust.

* * * * *

(e) *Effective date.* * * * In addition, the rule in paragraphs (c)(2)(vi)(a) and (vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals, applies to transfers made on or after April 4, 2000. If a transfer is made on or after April 4, 2000, that uses an individual other than one permitted in paragraphs (c)(2)(vi)(a) and (vii)(a) of this section, the interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of

years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. For example, in the case of an annuity interest payable for the life of an individual age 40 at the time of the transfer, assuming an interest rate of 7.4% under section 7520, the annuity factor from column 1 of Table S(7.4), contained in IRS Publication 1457, Book Aleph, for the life of an individual age 40 is 12.0587 (Publication 1457 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402). Based on Table B(7.4), contained in Publication 1457, Book Aleph, the factor 12.0587 corresponds to a term of years between 31 and 32 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 32 years. A judicial reformation must be commenced prior to the later of the date that is 6 months after the date these regulations are published as final regulations, or October 15th of the year following the year in which the transfer is made and must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before 6 months after these regulations are published as final regulations, declares any transfer, made on or after April 4, 2000, and on or before the date that is 60 days after the date these regulations are published as final regulations, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(J).

Charles O. Rossotti,
Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on April 4, 2000, 8:45 a.m., and published in the issue of the Federal Register for April 5, 2000, 65 F.R. 17835)