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Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B09 / PLR-105922-03

Date:
August 02, 2005

Legend

Patriarch =

Trust =
Company

State =
Corporation

A =

B =

C =

D =

E =

Family =

Matriarch =

F =

Child 1 =

Child 2 =

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Child 3 =

Child 4 =

Child 5 =

Date 1 =

Trust 1 =

Trust 2 =

Trustee 1 =

Trustee 2 =

Trustee 3 =

Company 1 =

Date 2 =

Court =

Trust 3 =

Grandchild A =

Date 3 =

Trust 4 =

Grandchild B =

Trustee 4 =

Date 4 =

Trust 5 =

Trust 6 =

Trustee 5 =

Trust 7 =

Trust 8 =

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Trust 9 =

Date 5 =

Trustee 6 =

Grandchild C =

Trustee 7 =

Date 6 =

Grandchild D =

Foundation =

Date 7 =

Trust 10 =

Trust 11 =

Trust 12 =

Trust 13 =

Grandchild E =

Trustee 8 =

Date 8 =

Trust 14 =

Trust 15 =

Trust 16 =

Trust 17 =

Date 9 =

Trust 18 =

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Grandchild F =
Date 10 =
Trust 19 =

Date 11 =
Trust 20 =

Great-Grandchild 1 =
Trust 21 =

Great-Grandchild 2 =
Date 12 =
Trust 22 =

Great-Grandchild 3 =
Trust 23 =

Great-Grandchild 4 =
Trust 24 =

Great-Grandchild 5 =
Date 13 =
Trust 25 =

Great-Grandchild 6 =
Trustee 9 =
Fund 1 =
Date 14 =
Trust 26 =

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Beneficiary 1 =
Grandchild G =
Fund 2 =
Date 15 =
Trust 27 =

Beneficiary 2 =

Date 16 =
Trust 28 =

Trust 29 =

Trust 30 =

Trust 31 =

Trustee 10 =
Trustee 11 =
Date 17 =
Trust 32 =

Trust 33 =

Date 18 =
Trust 34 =

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Trust 35 =

Trust 36 =

Trust 37 =

Fund 3 =

Trust 38 =

Date 19 =

Trust 39 =

Date 20 =

Trustee 12 =

Trustee 13 =

Trust 40 =

Date 21 =

Date 22 =

Trust 41 =

Date 23 =

Trustee 14 =

Trust 42 =

Date 24 =

Trust 43 =

Date 25 =

Trust 44 =

Date 26 =

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Trustee 15 =
Beneficiary 3 =
Trust 45 =

Date 27 =
Trust 46 =

Date 28 =

Dear :

This letter responds to your letter, dated February 2, 2004, and prior correspondence requesting rulings regarding the income, estate, and generation-skipping consequences of naming a family-owned trust company as trustee of certain family trusts.

The descendants of Patriarch (collectively “the family”) have agreed to form Trust Company in State as a wholly-owned subsidiary of Corporation. The shareholders of Corporation are individual family members, trusts related to the family members, and foundations having a relationship with the family. Trust Company will serve as an independent trustee of certain family trusts.

Patriarch had five children: A, B, C, D, and E, all of whom are now deceased. This letter relates to the trusts currently operating for the benefit of the descendants of A.

Section 3.2 of the Trust Company Bylaws provides that the board of directors for Trust Company shall consist of no less than five nor more than twenty-five persons. The exact number of directors within the minimum and maximum limits is to be fixed and determined from time to time by resolution of a majority of the full board or by resolution of a majority of the shareholders at any meeting thereof. At any time such a resolution is not in effect, the number shall be five.

Section 4.5 of the Trust Company Bylaws provides in relevant part that the board may designate a Discretionary Decisions Review Committee (“DDRC”) whose responsibility shall be to review discretionary decisions made by the trust officers of the company upon the written request of a beneficiary of an affected trust. The DDRC shall be appointed by the board and shall include at least three directors. Upon the receipt of a written request from a beneficiary of an affected trust (as defined in section 12.5) for a review of a discretionary decision (as defined in section 12.5) that has been made by the senior trust officer or by another trust officer and reviewed and approved by the

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senior trust officer, the committee shall meet as soon as practicable to review the discretionary decision. The DDRC shall render its decision to affirm or alter the discretionary decision of the senior trust officer in writing and such action shall represent the final decision by the company on the discretionary decision in question.

Section 5.6 of the Trust Company Bylaws provides in relevant part that the senior trust officer shall review all discretionary decisions of other trust officers of the company upon the request of a beneficiary or other interested person of a trust.

Section 12.1 of the Trust Company Bylaws provides that there shall be at least one member of the board who is not a Family member (as that term is defined in section 12.5(d)) or a grantor of, a donor to, or a current or contingent beneficiary of an affected trust (as defined in section 12.5(a)).

Section 12.2 of the Trust Company Bylaws provides that all discretionary decisions (as defined in section 12.5(c)) shall be made by the trust officers of the company who are not Family members, subject to review by the senior trust officer and the DDRC. Therefore, at any time that the company serves as trustee of any affected trust, neither the board nor any committee that includes one or more board members, other than the DDRC, may make or participate in the making of any discretionary decision with respect to any affected trust.

Section 12.3 of the Trust Company Bylaws provides that at any time that the company serves as trustee of an affected trust, no officer or director, including directors serving on the DDRC, of the company may participate in a decision of the company (nor be present during any committee discussion of or vote on such a decision) involving: (a) the making of any discretionary decision with respect to any affected trust if the officer or director, or his or her spouse, is a grantor, donor, or a current or contingent beneficiary; or (b) the making of any discretionary decision with respect to any affected trust if the officer or director, or his or her spouse, is a member of the Family. An officer or director who is subject to the restrictions contained in section 12.3 with respect to a discretionary decision of the company, although absent from at least that part of the meeting at which such matter is considered, shall be deemed present for the purpose of determining whether a quorum is present for that part of the meeting.

Section 12.5(a) of the Trust Company Bylaws provides that an "affected trust" is a trust (i) of which any member of the Family is a grantor, donor or current or contingent beneficiary and (ii) for which the Trustee has any discretionary power, other than an investment power, and the discretionary power is not limited by an ascertainable standard.

Section 12.5(c) of the Trust Company Bylaws provides that "discretionary decision" means, with respect to an affected trust, (i) the exercise of any incident of

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ownership with respect to any life insurance policy owned by that trust, or (ii) the exercise or non-exercise of a discretionary power (A) to distribute income or principal of that trust or any beneficiary, (B) to allocate receipts or disbursements between income and principal for purposes of affecting distributions of income or principal of that trust, or (C) to “adjust” income or principal or to make or terminate an election of “total return” or “unitrust” or like power.

Section 12.5(d) of the Trust Company Bylaws provides that “Family” includes each living lineal descendant and spouse of a lineal descendant of Patriarch and Matriarch.

A married E and had five children: Child 1, Child 2, Child 3, Child 4, and Child 5. A, E, Child 1, Child 2, and Child 4 are deceased.

On Date 1, A created Trust 1 for the benefit of Child 1 and Trust 2 for the benefit of Child 2 (collectively, the Series I Trusts). Trustee 1 currently serves as trustee of Trust 1. Trustee 2 and Trustee 3 currently serve as the trustees of Trust 2. Date 1 is prior to September 25, 1985. Child 1, and Child 2 are deceased. The Series I Trusts have the same operative provisions.

Article First of each Series I Trust Agreement provides that each trust will terminate twenty years after the death of the last survivor of A's children living on Date 1. Article Second provides that during a child's life, the trustee may, in its uncontrolled discretion, distribute income for the benefit of the named child for which the trust operates. After the child's death, the trustee may distribute, in its uncontrolled discretion, income for the benefit of the named child's adult lawful descendants. Upon the expiration of each trust term the trustee shall distribute the principal to and among the lawful descendants of the beneficiary for whom the individual trust was created in the proportions the named beneficiary appointed by will. In default of the exercised power of appointment, the principal shall be distributed in equal shares, per stirpes, to and among the lawful, living descendants of the named beneficiary. Article Tenth provides that D shall have the power to appoint successor trustees during his lifetime. After D's death, any trustee appointed by D shall have the power to appoint successor trustees. If no individual can appoint successor trustees under Article Tenth, the members of the Board of Directors of Company 1, by majority vote, may appoint successor trustees.

On Date 2, Court created Trust 3 for the benefit of Grandchild A and his descendants. On Date 3 Court created Trust 4 for the benefit of Grandchild B and his descendants. Trustee 1 currently serves as trustee of Trust 3. Trustee 4 currently serves as trustee of Trust 4. Date 2 and Date 3 are before September 25, 1985. Trust 3 and Trust 4 (collectively, the Series II Trusts) each have the same operative provisions.

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Paragraph 2 of the Series II court order provides that the trustee may distribute, in its uncontrolled discretion, income for the benefit of the named grandchild and his or her lawful adult descendants. Paragraph 3 provide that each trust terminates twenty years after the death of A's children. Upon termination, the trustees shall distribute the principal of each trust to and among the lawful descendants of Child 1, as Child 1 appointed in his will. In default of such appointment, the trustees shall distribute the principal of the trust to the named grandchild for whom the trust is maintained. If the named grandchild is no longer living, then the trustees shall distribute the principal to the named grandchild's lawful descendants in equal shares, per stirpes.

On Date 4, E created Trust 5 and Trust 6 (collectively, the Series III Trusts) for the benefit her children and their descendants. Trust 5 is for the benefit of Child 3 and her descendants. Trust 6 is for the benefit of Child 1 and his descendants. Trustee 4 currently serves as trustee of Trust 5. Trustee 1 and Trustee 5 currently serve as trustees of Trust 6. Date 4 is prior to September 25, 1985. The Series III Trusts each have the same operative provisions.

Article First of each Series III Trust Agreement provides in relevant part that income is paid to the Beneficiary (named child) quarterly. For twenty-one years after the death of the Beneficiary, the income is paid in equal shares, per stirpes, to the lawful issue of the Beneficiary. Upon the expiration of the twenty-one year period, the trust will terminate and the principal will be distributed in equal shares, per stirpes, to the lawful issue of the Beneficiary then living. During the trust period, the trustee has the uncontrolled discretion to make distributions of principal.

Article Tenth of each Series III Trust Agreement provides in relevant part that the income beneficiary of the trust, or if more than one, the majority in number of the adult income beneficiaries are authorized to appoint successor trustees provided, however, that no successor trustee(s) shall be a beneficiary or a prospective beneficiary of the income of the trust.

Child 1 created Trust 7, Trust 8, and Trust 9 (collectively, the Series IV Trusts) for the benefit of his children and their descendants. Trust 7 was created on Date 5 for the benefit of Grandchild A and his descendants. Trustee 1 and Trustee 6 currently serve as the trustees of Trust 7. Trust 8 was created on Date 5 for the benefit of Grandchild C and his descendants. Trustee 1 currently serves as the trustee of Trust 8. Trust 9 was created on Date 6 for the benefit of Grandchild D and his descendants. Trustee 6, Trustee 7, and Trustee 8 currently serve as the trustees of Trust 9. Date 5 and Date 6 are prior to September 25, 1985. The Series IV Trusts each have the same operative provisions.

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Article First of each Series IV Trust Agreement provides that each trust terminates twenty-one years after the death of the last survivor of Child 1's children living on the date the trust was created.

Article Second of each Series IV Trust Agreement provides that the net income of each trust shall be paid to or for the benefit of the named primary beneficiary during the beneficiary's life. Furthermore, the trustees, other than primary beneficiary, have the discretion to distribute principal to or for the benefit of the primary beneficiary. Unless sooner terminated by the distribution of principal, on the death of the primary beneficiary, the trustees shall distribute the principal to any one or more of the primary beneficiary's lawful issue in any degree, or to any one or more of the Child 1's lawful issue, or to trusts for the benefit of any one or more of the primary beneficiary's or Child 1's lawful issue, in shares as the primary beneficiary shall have appointed in a last will and testament. The primary beneficiary may make no appointment in favor of the primary beneficiary, the estate of the primary beneficiary, the creditors of the primary beneficiary, or the creditors of the primary beneficiary's estate.

Article Third of each Series IV Trust Agreement provides that if the primary beneficiary does not effectively exercise the power of appointment in Article Second, the trust shall continue until twenty-one years after the death of the last survivor of the persons named in Article First. After the primary beneficiary's death, net income and principal may be distributed in the trustees' discretion to or for the benefit of any one or more of the members of a class consisting of the lawful issue in any degree of the primary beneficiary. If there is none, the class shall also include the lawful issue in any degree of Child 1. A trustee who may be a beneficiary to whom income or principal might then be distributed may not participate in decisions relating to discretionary distributions.

Article Fourth of each Series IV Trust Agreement provides that unless sooner terminated by the distribution of principal, each trust shall terminate twenty-one years after the death of the last survivor of the persons named in Article First. Upon termination in absence of an exercised power of appointment, the trustees shall distribute the remaining principal to the lawful issue of the primary beneficiary, per stirpes. If there is none, the trustees shall distribute the remaining principal to the lawful issue of Child 1. If there is none, the trustees shall distribute the remaining principal to Foundation.

Article Fifteenth of each Series IV Trust Agreement provides that any trustee that is not a beneficiary to whom income might then be distributed may appoint a successor trustee to fill any vacancy. If there is not trustee acting that may appoint a successor trustee, the trustees of Foundation may appoint a successor trustee or co-trustee, as the case may be.

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On Date 7, Child 1 created Trust 10, Trust 11, Trust 12, and Trust 13 (collectively, the Series V Trusts) for the benefit of his children and their descendants. Trust 10 is for the benefit of Grandchild A and his descendants; Trust 11 is for the benefit of Grandchild E and her descendants; Trust 12 is for the benefit of Grandchild C and his descendants; and Trust 13 is for the benefit of Grandchild D and his descendants. Trustee 8 currently serves as the trustee of the Series V Trusts. Date 7 is prior to September 25, 1985. The Series V Trusts each have the same operative provisions.

Article First of each Series V Trust Agreement provides that each trust is held for the benefit of the named primary beneficiary. Article Second, paragraph (a) provides that the net income from each trust shall be paid at least quarterly to the primary beneficiary. The trustees have the discretion to distribute principal for the proper care, comfort, happiness, support and education of the primary beneficiary. Paragraph (b) provides that the primary beneficiary may appoint, by will, the principal of the trust for his or her benefit to any one or more of the lawful issue in any degree of Child 1, or in trust for the benefit of any one or more of the lawful issue in any degree of the primary beneficiary or of Child 1. The primary beneficiary may also direct in the exercised power of appointment that the trust shall be maintained for the lifetime of the primary beneficiary's spouse to pay net income, as needed, to or for the benefit of the primary beneficiary's spouse's proper care, comfort, happiness and support as determined in the sole discretion of the trustees. Principal may not be distributed to the primary beneficiary's spouse. The primary beneficiary may not make an appointment in favor of the primary beneficiary, the primary beneficiary's estate, the primary beneficiary's creditors, or the creditors of the primary beneficiary's estate.

Article Third of each Series V Trust Agreement provides that if the primary beneficiary does not effectively exercise the power of appointment in Article Second, then on the primary beneficiary's death, the trustees shall divide the trust into as many separate and equal parts as there are children of the primary beneficiary then surviving and deceased children with issue then living. Any part set aside for a deceased child of primary beneficiary shall be further divided into parts on a per stirpes basis for the issue of the deceased child. If the primary beneficiary dies with no issue, any property not effectively appointed shall be distributed per stirpes to Child 1's issue then living.

Article Fourth of each Series V Trust Agreement provides that unless sooner terminated, each trust shall terminate on the expiration of twenty-one years after the date of the death of the last survivor of the descendants of Patriarch who were in being on the date of the execution of the trust. Upon termination under Article Fourth, the trustees shall distribute the remaining principal of each trust to the person who is a beneficiary of the trust at the time of termination.

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Article Fifteenth of each Series V Trust Agreement provides that any trustee that is not a beneficiary to whom income might then be distributed may appoint a successor trustee to fill any vacancy. If there is no trustee acting that may appoint a successor trustee, the trustees of Foundation may appoint a successor trustee or co-trustee, as the case may be.

On Date 8, Child 1 created Trust 14, Trust 15, Trust 16, and Trust 17 for the benefit of his children and their descendants. Trust 14 is for the benefit of Grandchild A and his descendants; Trust 15 is for the benefit of Grandchild E and her descendants; Trust 16 is for the benefit of Grandchild C and his descendants; and Trust 17 is for the benefit of Grandchild D and his descendants. On Date 9, Child 2 created Trust 18 for the benefit of Grandchild F and his descendants. Trustee 8 currently serves as the trustee of Trust 14, Trust 15, Trust 16, Trust 17, and Trust 18 (collectively, the Series VI Trusts). Date 8 and Date 9 are prior to September 25, 1985. The Series VI Trusts each have the same operative provisions.

Article First of each Series VI Trust Agreement provides in relevant part that each trust will terminate twenty-one years after the death of the last survivor of a group of named measuring lives. Article Second provides, in relevant part, that during the term of the trust, the trustees have the discretion to distribute income or principal to the primary beneficiary, the primary beneficiary's spouse, or the primary beneficiary's issue. Article Third provides, in relevant part, that the primary beneficiary has a limited testamentary power of appointment over the assets of the trust. The primary beneficiary may appoint the principal of the trust among any one or more members of a class consisting of the primary beneficiary's surviving spouse, the lawful issue in any degree of the grantor, and the spouses, widows or widowers of such issue, or to the trustees for a trust for the benefit of any one or more members of the class. If the power of appointment is not effectively exercised, the trust shall continue until twenty-one years after the death of the last survivor of the persons named in Article First. Upon termination, the trust principal shall be distributed outright to the lawful issue of the primary beneficiary, per stirpes. If there are no living lawful issue then the principal shall be distributed outright to Foundation. Article Fourteenth provides in relevant part that successor trustees are named by the trustee(s).

On Date 10, Child 2 created Trust 19 for the benefit of Grandchild F and his descendants. Trustee 7 is currently serving as the trustee of Trust 19. Date 10 is prior to September 25, 1985.

Article First of the Trust 19 Agreement provides that the trust will terminate twenty-one years after the death of the last survivor of Patriarch living on Date 10. Article Second provides that net income shall be paid at least annually to Grandchild F. The trustees have the discretion to distribute principal to or for the benefit of Grandchild F. On Grandchild F's death, the trustees shall distribute any remaining

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principal to any one or more of Grandchild F's lawful issue in any degree or to Child 2's lawful issue in any degree, in shares as Grandchild F shall have appointed in his last will and testament. Grandchild F may not make an appointment in favor of himself, his estate, his creditors, or the creditors of his estate.

Article Third of the Trust 19 Agreement provides that if Grandchild F does not effectively exercise the power of appointment in Article Second, the trust shall continue until twenty-one years after the death of the last survivor of the persons named in Article First. During that time, the trustees have the discretion to distribute the net income or principal to or for the use of the members of the class consisting of the Grandchild F's lawful issue in any degree. A trustee who may be a beneficiary to whom income might then be distributed may not participate in discretionary distribution decisions. If there are no lawful issue of Grandchild F, the class shall also include Child 2's lawful issue.

Article Fourth of the Trust 19 Agreement provides that unless sooner terminated, each trust shall terminate on the expiration of twenty-one years after the date of the death of the last survivor of the persons named in Article First. Upon termination under Article Fourth, the trustees shall distribute the remaining principal of the trust to the Grandchild F's lawful issue, per stirpes. If there are none, then the trustees shall distribute the remaining principal to Child 2's lawful issue, per stirpes. If there are none, the trustees shall distribute the remaining principal to Foundation.

Article Fifteenth of the Trust 19 Agreement provides that any trustee that is not a beneficiary to whom income might then be distributed may appoint a successor trustee to fill any vacancy. If there is not trustee acting that may appoint a successor trustee, the trustees of Foundation may appoint a successor trustee or co-trustee, as the case may be.

Grandchild A created Trust 20 for the benefit of Great-Grandchild 1 and her descendants and Trust 21 for the benefit of Great-Grandchild 2 and his descendants under an agreement dated Date 11. Grandchild C created Trust 22 for the benefit of Great-Grandchild 3 and his descendants; Trust 23 for the benefit of Great-Grandchild 4 and his descendants; and Trust 24 for the benefit of Great-Grandchild 5 and his descendants under an agreement dated Date 12. Trustee 1 is currently serving as trustee of Trust 20, Trust 21, Trust 22, Trust 23, and Trust 24. Date 11 and Date 12 are prior to September 25, 1985. Trust 20, Trust 21, Trust 22, Trust 23, and Trust 24 (collectively, the Series VII Trusts) each have the same operative provisions.

Article First, paragraph (a) of each Series VII Trust Agreement lists the respective grantor's children and direct the trustees to divide the trust into separate and equal shares for the benefit of each child. Article First, paragraph (b) provides that upon additional children being born to or adopted by the grantor after the establishment of a trust, an amount shall be distributed to the trustees from each share then being held for

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the other children. The amount shall be equal to the product obtained by multiplying the fair market value (as of the birth or adoption) of the largest share for a child of the grantor then being held in trust by a fraction, the numerator of which is one and the denominator of which is the total number of the grantor's children then living including the last born or adopted child. The amount shall be set aside and held by the trustees for the benefit of the additional child under the same terms as if the share has been originally established under Article First.

Article Second, paragraph (a) of each Series VII Trust Agreement provides that the trustees have the discretion to distribute income or principal to the individual for whom a share is being held or his or her issue for the proper care, comfort, happiness, support and education of the individual and his or her issue. Any net income not distributed shall be accumulated by the trustees and periodically added to principal. Paragraph (b) gives the individual for whom a share is being held a testamentary power to appoint the trust assets to any one or more of the individual's lawful issue in any degree, or to any one or more of the grantor's lawful issue in any degree. The individual may also direct in the exercised power of appointment that the trust shall be maintained for the lifetime of the primary beneficiary's spouse to pay net income, as needed, to or for the benefit of the primary beneficiary's spouse's proper care, comfort, happiness and support as determined in the sole discretion of the trustees. Principal may not be distributed to the primary beneficiary's spouse. Paragraph (c) provides, in relevant part, that the individual may not make an appointment in favor of the individual, the individual's estate, the individual's creditors, or the creditors of the individual's estate.

Article Third of each Series VII Trust Agreement provides that if the individual does not effectively exercise the power of appointment in Article Second, then upon the individual's death, the trustees shall divide the separate trust apportioned for the individual into as many separate and equal parts as there are children of the individual living and deceased children of the individual with issue then living. Any part set aside for the issue of a deceased child shall be further divided for the issue of the deceased child per stirpes. If the respective beneficiary of a separate trust has not yet reached the age of eighteen years, the trustee shall distribute so much of the net income or principal of the separate trust as the trustee deems necessary for the proper care, comfort, support, maintenance, and education of the beneficiary. Income not distributed should be added to principal. The principal of the trust should be distributed to the beneficiary when the beneficiary reaches the age of eighteen.

Article Fourth of each Series VII Trust Agreement provides that unless sooner terminated, each trust shall terminate on the expiration of twenty-one years after the date of the death of the last survivor of the descendants of Patriarch who were in being on the date of the execution of the respective trust agreement. Upon termination under Article Fourth, the trustees shall distribute the remaining principal of a trust to the beneficiary of the trust.

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Article Fifteenth of each Series VII Trust Agreement provides that any trustee that is not a beneficiary to whom income might then be distributed may appoint a successor trustee to fill any vacancy. If there is no trustee acting that may appoint a successor trustee, the trustees of Foundation may appoint a successor trustee or co-trustee, as the case may be.

On Date 13, Grandchild F created Trust 25 for the benefit of Great-Grandchild 6. Trustee 9 currently serves as trustee of Trust 25. Date 13 is after September 25, 1985.

Article Second of the Trust 25 Agreement provides that the trust shall continue until Great-Grandchild 6 reaches the age of twenty-one years. At that time, the trustees shall distribute the principal and accumulated income of the trust to Great-Grandchild 6. In the event that Great-Grandchild 6 shall die before attaining the age of twenty-one years, the trustees shall distribute the principal and accumulated income, in shares as Great-Grandchild 6 shall have appointed in a last will and testament. If Great-Grandchild 6 fails to effectively exercise the power of appointment, the trustee shall distribute the principal and accumulated income to himself.

Article Sixth, paragraph O of the Trust 25 Agreement provides that the trustee may apply any sum of income or principal for the benefit of Great-Grandchild 6.

Article Eleventh, paragraph B of the Trust 25 Agreement provides that any trustee may designate a successor trustee to fill any vacancy occurring or which may occur. If no successor trustee is named, a successor trustee may be appointed by a majority of the persons then acting as trustees of Fund 1.

On Date 14, Grandchild F created Trust 26 for the benefit of Beneficiary 1, Grandchild G, and the spouse and issue of Grandchild F. Trustee 9 currently serves as trustee of Trust 26. Date 14 is after September 25, 1985.

Article 2 and Article 5 of the Trust 26 Trust Agreement provide that the trustee may distribute income or principal of the trust to or for the benefit of: Beneficiary 1, Grandchild G, the lawful spouse of Grandchild F, and the lawful issue of Grandchild F. If none of the above designated persons shall be living, the trustee may distribute income or principal to or for the benefit of the lawful issue of Grandchild G. Income not distributed shall be accumulated and added to the principal of Trust 26. Article 3 provides that the trust is irrevocable. Article 5, paragraph (a) provides that Trust 26 shall terminate twenty-one years after the death of the last survivor of the descendants of Patriarch who were in being on Date 14. Paragraph (c) provides that upon termination, the trustees shall distribute the trust assets to Grandchild F's lawful issue, per stirpes. If there are none, the trustees shall distribute the trust assets to

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Grandchild G's lawful issue per stirpes. If there are none, the trustees shall distribute the trusts assets to Fund 2.

Article 7 of the Trust 26 Trust Agreement provides that each beneficiary listed under Article 2 has the power to withdraw immediate distribution from the trust of an amount equal to the amount of transfer to (directly or indirectly) the trust during the year divided by the total number of person have a demand right. The annual demand right for any person may not exceed the donor's maximum annual federal gift tax exclusion, or if the donor is married on the date of the transfer to the trust, then the annual demand right shall not exceed twice the donor's annual federal gift tax exclusion amount. The demand right terminates thirty days after a transfer to the trust. In the event that a beneficiary fails to exercise a demand power within the thirty days, and to the extent that the amount subject to the demand will exceed the greater of five thousand dollars or five percent of the aggregate value of the assets out of which the demand power could be exercised, then, to that limited extent, the demand power shall continue in existence. For this purpose, the amount subject to the exercise of a demand power includes all amounts over which the beneficiary had, with respect to the trust, a demand power that expired during the same calendar year, and all unexpired demand powers with respect to the trust as to any prior contributions from the same or any prior calendar year.

Article 12 of the Trust 26 Trust Agreement provides that the trustee may appoint a successor trustee. If there is no acting trustee, the persons acting as trustees of Fund 2 are authorized to appoint a successor trustee.

On Date 15, Grandchild A created Trust 27 for the benefit of his descendants. Trustee 5 currently serves as trustee of Trust 27. Date 15 is after September 25, 1985.

Article Second, paragraph (a) of the Trust 27 Agreement provides that the trustees have the discretion to distribute income or principal to Grandchild A's issue. In addition, the trustees have the discretion to distribute income to the spouses of Grandchild A's issue. Paragraph (c) provides that the trust shall terminate upon the death of the last living member of the class consisting of Grandchild A's issue, and upon such termination, the assets of Trust 27 shall be distributed to Grandchild A's then living issue, per stirpes, and if there are none, to the then living issue (excluding Grandchild A) of Child 1, per stirpes, and if there are none, then to Foundation. Paragraph (d) provides that if not terminated earlier, Trust 27 shall terminate upon the expiration of twenty-one years after the death of the last survivor of the descendants of Child 1 who were in being on Date 15.

Article Fifth of the Trust 27 Agreement provides that each beneficiary listed under Article 2 has the power to demand the immediate distribution from the trust of an amount equal to the amount of transfer to (directly or indirectly) the trust during the year

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divided by the total number of person have a demand right. The annual demand right for any person may not exceed the donor's maximum annual federal gift tax exclusion, or if the donor is married on the date of the transfer to the trust, then the annual demand right shall not exceed twice the donor's annual federal gift tax exclusion amount. The demand right terminates thirty days after a transfer to the trust. In the event that a beneficiary fails to exercise a demand power within the thirty days, and to the extent that the amount subject to the demand will exceed the greater of five thousand dollars or five percent of the aggregate value of the assets out of which the demand power could be exercised, then, to that limited extent, the demand power shall continue in existence. For this purpose, the amount subject to the exercise of a demand power includes all amounts over which the beneficiary had, with respect to the trust, a demand power that expired during the same calendar year, and all unexpired demand powers with respect to the trust as to any prior contributions from the same or any prior calendar year.

Article Eighth of the Trust 27 Agreement provides that Trustee 9 is the successor trustee to Trustee 5. Trustee 5 (at any time while he is serving as trustee), or Trustee 9 (at any time while he is serving as trustee), may designate a successor trustee to fill any vacancy. In the event no successor trustee has been designated, then a successor trustee shall be appointed by the then serving trustees of Foundation or its successor.

On Date 16, Beneficiary 2 created the Series VIII Trusts for the benefit of her issue. Trust 28 is for the benefit of Grandchild A and his descendants. Trust 29 is for the benefit of Grandchild E her descendants. Trust 30 is for the benefit of Grandchild C and his descendants. Trust 31 is for the benefit of Grandchild D and his descendants. Trustee 7 is currently serving as the sole trustee of Trust 28, Trust 29, and Trust 31. Trustee 7 and Trustee 10 are currently serving as trustees of Trust 30. Date 16 is prior to September 25, 1985. Trust 28, Trust 29, Trust 30, and Trust 31 (collectively, the Series VIII Trusts) each have the same operative provisions.

Article Two of each Series VIII Trust Agreement provides that the trustee shall divide the property into equal shares, one such share for each of the grantor's children who are then living and one such share for the issue of each child not living. Each share set aside for the issue of a deceased child shall be further divided and set apart into subshares for the issue, per stirpes. Each share shall be held until the death of the descendant of the grantor for whom the share was set apart (the beneficiary with respect to the share). The trustee who is not the beneficiary has the discretion to pay net income or principal of each trust to one or more persons out of a class composed of the beneficiary and the beneficiary's descendants. Net income not paid shall be accumulated. Upon the death of the beneficiary, the trustee shall distribute all trust property as directed by the beneficiary to the person(s) included in the class composed of the grantor's descendants (other than the beneficiary) and the spouses of the grantor's descendants (including the spouse of a beneficiary and a person who shall

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have remarried). If the beneficiary shall fail to exercise his or her power of appointment, the trustees shall distribute all property not effectually appointed to the issue of the beneficiary who survive the beneficiary, per stirpes. If there are none, then to the issue who survive the beneficiary, per stirpes, of the nearest ancestor who was a descendant of the grantor and has issue who survive the beneficiary. Notwithstanding the provisions of Article Two, each trust shall terminate no later than twenty-one years after the death of the last survivor of Beneficiary 2 and her descendants living on Date 16 and all trust property shall be distributed to the beneficiary at that time.

Article Five of each Series VIII Trust Agreement provides that if Trustee 7 ceases to act as trustee of the Series VIII Trusts, then Trustee 11 shall serve as trustee. If at any time an individual shall be acting as sole trustee of any Series VIII Trust, the individual may appoint another individual or a bank or trust company to act as co-trustee or as a successor trustee of a trust.

On Date 17, Grandchild A created the Series IX Trusts for the benefit of his children and their descendants. Trust 32 is for the benefit of Great-Grandchild 1 and her descendants; and Trust 33 is for the benefit of Great-Grandchild 2 and his descendants. Trustee 9 is currently serving as the trustee of the Series IX Trusts. Date 17 is after September 25, 1985. The Series IX Trusts each have the same operative provisions.

Article Two of the Series IX Trust Agreement provides that the trustee has the discretion to distribute net income or principal to the named beneficiary for whom a trust is held. Any income not distributed shall be added to principal. All trust income and principal shall be distributed to the named beneficiary when he or she reaches the age of thirty-five. If a named beneficiary dies before reaching thirty-five, the trustee shall distribute the income and principal of the trust to the person(s), including the named beneficiary's estate) as the named beneficiary appoints by will. The trustee shall distribute all property not effectively appointed to the named beneficiary's issue, per stirpes. If there are none, to Grandchild A's issue, per stirpes.

Article Five of the Series IX Trust Agreement provides that any trustee may appoint a co-trustee or one or more successor trustees.

On Date 18, Grandchild A and Grandchild C created the Series X Trusts for the benefit of their descendants. Grandchild A created Trust 34 for the benefit of Great-Grandchild 1 and her descendants and Trust 35 for the benefit of Great-Grandchild 2 and his descendants. Grandchild C created Trust 36 for the benefit of Great-Grandchild 3 and his descendants and Trust 37 for the benefit of Great-Grandchild 4 and his descendants. Trustee 1 is currently serving as the trustee of the Series X Trusts. Date 18 is prior to September 25, 1985. The Series X Trusts each have the same operative provisions.

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Article First of each Series X Trust Agreement provides that unless sooner terminated, each trust will terminate twenty-one years after the death of the last survivor of Patriarch's descendants in being on Date 18.

Article Second of each Series X Trust Agreement provides that net income shall be paid annually to or for the benefit of the Beneficiary (named child) for the Beneficiary's lifetime. In addition, the trustee, in his discretion may distribute principal to or for the benefit of the Beneficiary. On the Beneficiary's death, the trustee shall distribute the remaining principal to and among any one or more of the lawful issue in any degree of the Beneficiary, or to and among any one or more of the lawful issue in any degree of the Grantor, or to and among the trustees for the benefit of any one or more of the lawful issue in any degree of the Beneficiary or of the Grantor, in such shares, proportions and estates as the Beneficiary shall have appointed in and by a last will and testament. The Beneficiary may make no appointment in favor of Beneficiary, in favor of the estate of Beneficiary, in favor of the creditors of Beneficiary, or in favor of the creditors of Beneficiary's estate. In addition, the Beneficiary may make no appointment the effect of which is to postpone the vesting or suspend the power of alienation for a period ascertainable without regard to Date 18.

Article Third of each Series X Trust Agreement provides that if the Beneficiary fails to effectively exercise the power of appointment, the trust shall continue until twenty-one years after the death of the last survivor of the persons named in Article First. From the death of the Beneficiary until the trust's termination (the "continuance" of the trust), the trustee have the discretion to pay the net income or principal in such shares and proportions as the trustees, excluding any trustee who may be a beneficiary to whom income might then be distributed, shall in their sole and uncontrolled discretion deem wise and proper to or for the use and benefit of any one or more of the members of the class consisting of the lawful issue in any degree of the Beneficiary. In the event that there are no lawful issue of the Beneficiary, then the class shall also include the lawful issue in any degree of the grantor.

Article Fifteenth of each Series X Trust Agreement provides that the trustee(s), excluding any trustee who may be a beneficiary to whom income might then be distributed, may appoint a successor trustee to fill any vacancy and may increase the number of trustees. Such successor trustee(s) may be any individual, other than the grantor or a contributor to the trust, or may be any bank or trust company incorporated under the laws of any State in the United States, or under the laws of the United States or of any foreign country. During the continuance of the trust no person shall act as trustee who at that time shall be the spouse of the grantor or of any contributor or who at that time shall be related or subordinate to the grantor or any contributor as defined in § 672 of the Internal Revenue Code. If there are no trustees qualified to name a successor, then a majority of the persons (other than the grantor, any contributor, a

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spouse of either the grantor during his lifetime or a contributor during his lifetime, or any person who is then related or subordinate to the grantor or any contributor as defined in § 672) may appoint a successor trustee. If there are none, then the trustees of Fund 3 may appoint a successor trustee.

Child 1 created the Series XI Trusts for the benefit of his descendants. Child 1 created Trust 38 on Date 19 and Trust 39 on Date 20. Trustee 12 and Trustee 13 are currently serving as the trustees of Trust 38. Trustee 7 and Trustee 13 are currently serving as the trustees of Trust 39. Date 19 and Date 20 are after September 25, 1985. The Series XI Trusts each have the same operative provisions.

Article One of each Series XI Trust provides that the trustees may pay out net income or principal, or both, as the trustees (other than any current beneficiary) in the trustees' sole discretion determine to one or more persons as the trustees (other than any current beneficiary) in the trustees' sole discretion select out of a class composed of Child 1's descendants, of whatever degree and whenever born. Net income not distributed shall be added to principal. Upon the death of the last to die of Child 1's children, or at such earlier time as the trustees in their sole discretion determine, the income and principal of the trust shall be disposed of as provided in Article Three.

Article Two of each Series XI Trust provides that if an addition is made to the trust in any calendar year, each of the persons to whom distributions may then be made under Article One shall have the power, commencing with the date of the addition, to withdraw from principal, property (including property constituting the addition) having a value equal at the time of withdrawal to the value of the addition at the time of the addition divided by the number of individuals having a power of withdrawal immediately after the addition. The powers of withdrawal shall be cumulative, provided that on December 31 of each year, the total amount which may be withdrawn by each powerholder shall be reduced by the greater of \$5,000 or 5 percent of the value of the trust principal on such date. If a distribution of principal is made to an individual then having a power of withdrawal, such distribution shall be deemed an exercise of the power and shall reduce the amount subject thereto.

Article Three of each Series XI Trust provides that the trustees shall divide all property to be disposed of as provided in Article Three into as many equal shares as will allow them to set apart one share for each then living grandchild of Child 1 and one share for the issue then living of each grandchild of Child 1 who shall have died. Each share for the issue of a deceased grandchild shall be divided into subshares for such issue, per stirpes. The trustees shall hold each share and subshare in trust, during the life of the grandchild or more remote descendant of the grantor for whom the share was set apart (the "Beneficiary"), to pay out of the net income or principal (or both) such amount(s) (whether equal or unequal) as the trustees (other than the Beneficiary) in their sole discretion determine to the Beneficiary and/or the Beneficiary's descendants,

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of whatever degree and whenever born, as the trustees in their sole discretion select. Upon the death of the Beneficiary, the trustees shall distribute all income and principal of the trust to the person(s) from the class consisting of Child 1's descendants (other than the Beneficiary) as the Beneficiary may appoint by will. Any property not effectively appointed shall be distributed to the issue of the Beneficiary then living, per stirpes. If there are none, the income and principal shall be distributed to the issue then living, per stirpes, of the Beneficiary's nearest ancestor who was a descendant of the Child 1 and has issue then living. If there are none, the income and principal shall be distributed to the issue then living, per stirpes, of Child 1. Unless sooner terminated, each trust shall terminate upon the expiration of twenty-one years after the death of all descendants of A living on the date the applicable trust instrument was executed. At that time, the trustee shall distribute all income and principal of the trust to the Beneficiary. Notwithstanding the provision of Article One and Article Three, after the death of Child 1, the trustees may distribute income or principal of any trust to or for the maintenance and support of Beneficiary 2, including her medical expenses.

Article Six of each Series XI Trust Agreement provides that if at any time less than three trustees are acting, the trustee(s) may appoint a co-trustee, provided that at no time shall more than three trustees be acting.

On Date 21, Beneficiary 2 created Trust 40 for the benefit of herself and her descendants. Trustee 7, Trustee 11, and Trustee 13 are currently serving as the trustees of Trust 40. Date 21 is after September 25, 1985.

Article One of the Trust 40 Agreement provides that the trustees shall invest and reinvest the trust property until the first to occur of (i) ten years after Date 21 or (ii) the death of Beneficiary 2 and during such time shall pay the net income at least quarter-annually to Beneficiary 2. Article Two provides that Trust 40 shall continue in trust until the expiration of twenty years from Date 21. More than ten but less than twenty years have passed since Date 21. Beneficiary 2 died on Date 22.

Article Two of the Trust 40 Agreement further provides that after the first to occur of (i) ten years after Date 21 or (ii) the death of Beneficiary 2, the trustees may distribute net income or principal to one or more of the living descendants of Beneficiary 2. Any net income not distributed shall be added to principal. Upon the expiration of twenty years from Date 21, Trust 40 shall be divided and set apart into equal shares, one for each living child of Beneficiary 2, and each share shall be distributed to the child for whom it was set apart. If no child of Beneficiary 2 is living, the trustees shall distribute Trust 40 to the legal representatives of the estate of the last to die of Beneficiary 2's children.

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Article Four of the Trust 40 Agreement provides that each trustee may appoint a successor trustee in his or her place. If at any time less than two trustees are acting, the trustee shall appoint a co-trustee.

On Date 23, Child 2 created Trust 41 for the benefit of Beneficiary 1 and her descendants. Trustee 9 is currently serving as the trustee of Trust 41. Date 23 is prior to September 25, 1985.

Article I of the Trust 41 Agreement provides that until the death of Beneficiary 1, or until her remarriage, whichever event occurs first, the trustee shall distribute all the net income from Trust 41 in quarter-annual or more frequent installments. Upon the death of Beneficiary 1, if any issue of the marriage between Child 2 and Beneficiary 1 are living, the trustee shall divide the principal of Trust 41 into equal shares so that one share may be placed in separate trust for each child of the marriage who is then living and one share shall be paid, per stirpes, to the living issue of each deceased child of the marriage. Each such share to be placed in separate trust for a living child of the marriage shall be placed in trust unless: (a) such child has attained the age of thirty years and elects to receive the share or some part of it free of trust; or (b) such child has attained the age of twenty-five years but not thirty years and elects to receive one-half of the share free of trust. Each share or portion held in trust shall be held for the benefit of the child for whom the trust was set apart. The trustees have the discretion to distribute the net income from each share for the support, education, and welfare of the child for whom the share was set apart. Income not distributed during any year shall be added to principal. Each child for whom a share has been set apart shall be permitted to draw down the principal of the share as follows: (1) at any time after such child attains the age of twenty-five years up to one-half the share; and (2) the balance of the trust after such child attains the age of thirty years. If any child should die before the full distribution to him of such share, the undistributed portion shall be paid to the child's issue then living, per stirpes. If there are no such issue, the portion shall be distributed to the trusts held under Trust 41 for the issue of Child 2 and Beneficiary 1 then living, per stirpes. If an issue's trust has been distributed, then that child's share shall be distributed outright.

Article VII of the Trust 41 Agreement provides that Trustee 14 is the successor trustee. Each trustee beginning with Trustee 14 may designate his successor.

Trust 42 was created on Child 2's death, Date 24, under the terms of his will. Trust 42 is for the benefit of Grandchild F and his descendants. Trustee 6 is currently serving as the trustee of Trust 42. Date 24 is prior to September 25, 1985.

Item Eight, paragraph (a) of Child 2's Last Will and Testament provides that the trustees shall divide the trust estate into separate and equal shares, one such share for each of Child 2's then living children, and one share for any then deceased child of

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Child 2 leaving issue surviving Child 2. Any share set aside for the issue of a deceased child shall be further divided into equal shares for such issue.

Item Eight, paragraphs (b) and (c) of Child 2's Last Will and Testament provide that the trustee may distribute net income or principal to or for the benefit of the Beneficiary (named child for whom the share has been set aside) and any issue of the Beneficiary for the proper care, comfort, happiness, support, and education of the Beneficiary or his or her issue. The trustee may also distribute net income to or for the benefit of the Beneficiary's spouse for the proper care, comfort, happiness, support, and education of the Beneficiary's spouse. Net income not distributed shall be added to principal. The Beneficiary has a testamentary power to appoint the principal of his or her share of the trust to or for the benefit of any one or more of the lawful issue in any degree of the Beneficiary, or to and among any one or more of Child 2's lawful issue in any degree (outright or in trust). Paragraph (e) provides the Beneficiary may make no appointment in favor of the Beneficiary, the Beneficiary's estate, the Beneficiary's creditors, or the creditors of the Beneficiary's estate. Paragraph (f) provides that notwithstanding any other provisions each trust created under Item Eight of Child 2's Last Will and Testament shall, unless sooner terminated, terminate upon the expiration of twenty-one years after the date of death of the last survivor of the descendants of Patriarch who were in being on Date 24. Upon termination under paragraph (f), the trustee shall distribute the principal of any Trust 42 sub-trust to the Beneficiary of the trust.

Child 1 created the Series XII Trusts for the benefit of Grandchild E and her descendants. Child 1 created Trust 43 on Date 25 and Trust 44 on Date 26. Trustee 12 and Trustee 15 are currently serving as the trustees of the Series XII Trusts. Date 25 and Date 26 are after September 25, 1985. The Series XII Trusts each have the same operative provisions.

Article One of each Series XII Trust provides that the trustees may distribute net income or principal to or for the benefit of one or more person from the class consisting of Grandchild E, her husband, Beneficiary 3, and Grandchild E's living descendants of whatever degree and whenever born. No payment of principal, however, shall be made until the expiration of the time for the exercise of each power of withdrawal that may result from the creation or addition to a trust as provided in Article Two. Net income not distributed shall be added to principal annually. Upon the death of Grandchild E, the trustees shall, subject to any power of withdrawal then in existence, distribute all trust property to the person(s) out of a class composed of Child 1's descendants as Grandchild E may appoint by will. Any property not effectually appointed shall continue in trust. Upon the expiration of twenty-one years after the death of all Child 1's descendants living on the date of the applicable trust, all trust property shall be distributed to the then living issue, per stirpes, of Grandchild E, or, if there are none, to the then living issue of Child 1, per stirpes.

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Article Two of Trust 43 provides that notwithstanding the provision of Article One, in the calendar year in which a trust is created, each of Grandchild E, Beneficiary 3, and Grandchild E's living descendants may withdraw principal having a value of \$20,000.

Article Two of each Series XII Trust provides that if an addition is made by Child 1 or another person to the trust in a calendar year other than the year in which the trust is created, each of said individuals living on the date of the addition shall have the power to withdraw principal having a value equal to the value of the addition divided by the number of individuals having the withdrawal power. Notwithstanding the other provisions of Article Two, if upon the termination of any power of withdrawal the individual holding the power would be deemed to have made a taxable gift for federal gift tax purposes or to have released a general power of appointment for federal estate tax purposes such power shall continue in existence with respect to the amount that would have been a taxable gift except to the extent that it shall thereafter terminate. Such power shall terminate as soon as to the extent that such termination shall not result in a taxable gift or in the release of a general power of appointment by the individual holding the power.

Article Five of each Series XII Trust Agreement provides that a trustee may appoint a co-trustee or a successor trustee.

On Date 27, Child 1 created Trust 45 for the benefit of his descendants. Trustee 8 is currently serving as the trustee of Trust 45. Date 27 is after September 25, 1985.

Article One of the Trust 45 Trust Agreement provides that the trustee shall divide and set apart the trust property into equal shares, one share for each of Child 1's nine grandchildren (the "Beneficiary" of each share). The trustee may distribute net income or principal to the Beneficiary for whom the share is set aside. Income not distributed shall be added to principal. Upon the Beneficiary's death, the trustee shall distribute all share property to the person(s) (including the Beneficiary's estate) as the Beneficiary may appoint by will. Any property not effectually appointed shall be distributed to the Beneficiary's living issue, per stirpes. If there are none, then in equal shares to the other living grandchildren of Child 1 named in Article One. If property is to be distributed to an individual for whom another share is being held, the property shall be added to the share being held for that individual.

Article Two of the Trust 45 Trust Agreement provides that if an addition is made by Child 1 or another person to the trust in a calendar year other than the year in which the trust is created, each of said individuals living on the date of the addition shall have the power to withdraw principal having a value equal to the value of the addition divided by the number of individuals having the withdrawal power. Notwithstanding the other

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provisions of Article Two, if upon the termination of any power of withdrawal the individual holding the power would be deemed to have made a taxable gift for federal gift tax purposes or to have released a general power of appointment for federal estate tax purposes such power shall continue in existence with respect to the amount that would have been a taxable gift except to the extent that it shall thereafter terminate. Such power shall terminate as soon as to the extent that such termination shall not result in a taxable gift or in the release of a general power of appointment by the individual holding the power.

Article Five of the Trust 45 Agreement provides that a trustee may appoint a co-trustee or a successor trustee.

On Date 28, Child 1 created Trust 46 for the benefit of his descendants. Trustee 8 is currently serving as the trustee of Trust 46. Date 28 is after September 25, 1985.

Article One of the Trust 46 Agreement provides that the trustees may distribute net income or principal to or for the benefit of one or more person from the class consisting of Child 1's living descendants of whatever degree and whenever born. No payment of principal, however, shall be made until the expiration of the time for the exercise of each power of withdrawal that may result from the creation or addition to a trust as provided in Article Two. Net income not distributed shall be added to principal annually. Upon the death of Beneficiary 2, the trustees shall, subject to any power of withdrawal then in existence, distribute all trust property to the person(s) out of a class composed of Child 1's descendants as Beneficiary 2 may appoint by will. Any property not effectually appointed shall continue in trust. Upon the death of all Child 1 and Beneficiary 2's descendants living on Date 28, all trust property shall be distributed as provided in Article Three.

Article Two of the Trust 46 Agreement provides that notwithstanding the provision of Article One, in the calendar year in which a trust is created, each Child 1's living descendants may withdraw principal having a value of \$20,000. If an addition is made by Child 1 or another person to the trust in a calendar year other than the year in which the trust is created, each of said individuals living on the date of the addition shall have the power to withdraw principal having a value equal to the value of the addition divided by the number of individuals having the withdrawal power. Notwithstanding the other provisions of Article Two, if upon the termination of any power of withdrawal the individual holding the power would be deemed to have made a taxable gift for federal gift tax purposes or to have released a general power of appointment for federal estate tax purposes such power shall continue in existence with respect to the amount that would have been a taxable gift except to the extent that it shall thereafter terminate. Such power shall terminate as soon as to the extent that such termination shall not

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result in a taxable gift or in the release of a general power of appointment by the individual holding the power.

Article Three of the Trust 46 Agreement provides that all property shall be divided and set apart into equal shares, one share for each of Child 1's living grandchildren and one share for the issue of each of Child 1's deceased grandchildren. Each share set apart for the issue of a deceased grandchild shall be further divided and set apart into subshares for the issue, per stirpes. The trustees may pay net income or principal to one or more of the named individual for whom the share is held (the "Beneficiary") and the Beneficiary's living descendants. Net income not distributed shall be added to principal. Upon the death of a Beneficiary, the trustee shall distribute the trust property to the person(s) out of a class composed of Child 1's descendants (other than the Beneficiary) and the spouses of deceased descendants (including the Beneficiary) as the Beneficiary appoints by will. All property not effectually appointed shall be distributed to the Beneficiary's living issue, per stirpes. If there are none, then to the living issue of the Beneficiary's nearest ancestor who was a descendant of Child 1. If there are none, then the assets should be distributed to Child 1's living issue. If the recipient of a trust distributed under Article Three is the Beneficiary of another Article Three trust, the principal shall be distributed to the Article Three trust held for the benefit of the recipient. Any trust in existence upon the expiration of twenty-one years after the death of the last survivor of Child 1's descendants living on Date 28 shall thereupon terminate and the trust income and principal shall be distributed to the Beneficiary.

Article Seven of the Trust 46 Agreement provides that a trustee may appoint a co-trustee or a successor trustee.

Of the trusts discussed in this letter, the following are trusts for which the grantor(s) is still living: Trust 20, Trust 21, Trust 22, Trust 23, Trust 24, Trust 25, Trust 26, Trust 27, Trust 32, Trust 33, Trust 34, Trust 35, Trust 36, and Trust 37. Potential beneficiaries of all the trusts discussed in this letter include individuals who are two or more generations below the grantor's generation, therefore, distributions from each trust may be subject to the GST tax. Trust 1, Trust 2, Trust 3, Trust 4, Trust 5, Trust 6, Trust 7, Trust 8, Trust 9, Trust 10, Trust 11, Trust 12, Trust 13, Trust 14, Trust 15, Trust 16, Trust 17, Trust 18, Trust 19, Trust 20, Trust 21, Trust 22, Trust 23, Trust 24, Trust 28, Trust 29, Trust 30, Trust 31, Trust 34, Trust 35, Trust 36, Trust 37, Trust 41, and Trust 42 were irrevocable on September 25, 1985.

RULINGS REQUESTED

You have requested the following rulings: 1) Trust Company is not a "related or subordinate party" within the meaning of § 672(c) with respect to a grantor of the trusts for which Trust Company will serve as trustee. Trust Company will qualify as an independent trustee under § 672(c)(1). 2) Neither the appointment of Trust Company

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as trustee of the trusts nor Trust Company's exercise of any discretionary powers as to distributions to beneficiaries of the trust will result in any grantor being treated as the owner of any portion of the trust assets under § 674(a). 3) Any grantor serving on Trust Company's Trust Committee will not result in a grantor being treated as the owner of any portion of the trust under § 675(4). 4) Neither the appointment of Trust Company as trustee of the trusts nor Trust Company's exercise of any discretionary distribution powers to beneficiaries of the trusts will result in a grantor's being treated as the owner for any portion of the trust assets under § 677. 5) Neither the appointment of Trust Company as trustee of the trusts nor Trust Company's exercise of any discretionary distribution powers will result in a grantor being treated as the owner of any portion of the trust assets under § 678. 6) Neither the appointment of Trust Company as trustee of the trusts nor Trust Company's exercise of any discretionary powers with respect to distributions to beneficiaries will result in the inclusion of any portion of the value of the trust assets in the estate of any grantor or beneficiary under §§ 2036, 2038, or 2041. 7) The appointment of Trust Company as trustee of the trusts created, funded, and irrevocable prior to September 25, 1985, will not constitute a constructive addition to the trust and affect the status of the pre-September 25, 1985 trusts as exempt from the generation-skipping transfer tax under § 2601.

RULINGS 1 and 2

Section 672(c)(2) provides that for purposes of subpart E of part I of subchapter J, the term "related or subordinate party" means any nonadverse party who is any one of the following: the grantor's father, mother, issue, brother or sister; an employee of the grantor; a corporation or any employee of a corporation in which the stockholdings of the grantor and the trust are significant from the viewpoint of voting control; a subordinate employee of a corporation in which the grantor is an executive.

Section 674(a) provides, in general, that the grantor shall be treated as the owner of any portion of a trust in respect of which the beneficial enjoyment of the corpus or the income therefrom is subject to a power of disposition, exercisable by the grantor or a nonadverse party, or both, without the approval or consent of any adverse party.

Section 674(c) provides that § 674(a) shall not apply to a power solely exercisable (without the approval or consent of any other person) by a trustee or trustees, none of whom is the grantor, and no more than half of whom are related or subordinate parties who are subservient to the wishes of the grantor (1) to distribute, apportion, or accumulate income to or for a beneficiary or beneficiaries, or to, for, or within a class of beneficiaries; or (2) to pay out corpus to or for a beneficiary or beneficiaries or to or for a class of beneficiaries (whether or not income beneficiaries).

Based solely on the facts and representations submitted, including the provision of the bylaws of Trust Company that prohibits any family member from taking part in any

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discretionary distribution decision with regard to any trust for which Trust Company is acting as trustee, we conclude that Trust Company is not a related or subordinate party, within the meaning of § 672(c)(2), to any of the grantors of the trusts for which it will be acting as trustee. Therefore, Trust Company may exercise the powers described in § 674(c) with regard to those trusts without causing the grantors to be treated as the owners of any portion of the trusts under § 674(a).

RULING 3

Under § 675 and applicable regulations, the grantor is treated as the owner of any portion of a trust if, under the terms of the trust agreement or circumstances attendant on its operation, administrative control is exercisable primarily for the benefit of the grantor rather than the beneficiary of the trust.

Section 675(4) provides that the grantor shall be treated as the owner of any portion of a trust in respect of which a power of administration is exercisable in a nonfiduciary capacity by any person without the approval or consent of any person in a fiduciary capacity. For purposes of § 675(4), the term “power of administration” means any one or more of the following powers: (A) a power to vote or direct the voting of stock or other securities of a corporation in which the holdings of the grantor and the trust are significant from the viewpoint of voting control; (B) a power to control the investment of the trust funds either by directing investments or reinvestments, or by vetoing proposed investments or reinvestments, to the extent that the trust funds consist of stocks or securities of corporations in which the holdings of the grantor and the trust are significant from the viewpoint of voting control; or (C) a power to reacquire the trust corpus by substituting other property of an equivalent value.

Based solely on the facts and representations submitted, we conclude that our examination of the terms of the trusts and the bylaws of Trust Company reveals none of the circumstances that would cause administrative controls to be considered exercisable primarily for the benefit of the grantors of the trusts for which Trust Company will act as trustee under § 675, if those trusts are substantially identical to the trusts. Thus, the circumstances attendant on the operation of the Trust Company, its trust committee, and the trusts for which the Trust Company is acting as trustee will determine whether any grantor will be treated as the owner of any portion of the trusts under § 675. This is a question of fact, the determination of which must be deferred until the federal income tax returns of the parties involved have been examined by the office with responsibility for such examination.

RULING 4

Section 677(a) provides, in general, that the grantor shall be treated as the owner of any portion of a trust, whether or not he is treated as such owner under § 674, whose

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income without the approval or consent of any adverse party is, or, in the discretion of the grantor or a nonadverse party, or both, may be (1) distributed to the grantor or the grantor's spouse; (2) held or accumulated for future distribution to the grantor or the grantor's spouse; or (3) applied to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse.

Section 1.677(a)-1(d) of the Income Tax Regulations provides that, under § 677, a grantor is, in general, treated as the owner of a portion of a trust whose income is, or in the discretion of the grantor or a nonadverse party, or both, may be applied in discharge of a legal obligation of the grantor.

Our examination of the trusts does not reveal any provision that would allow distributions to be made to the grantor, the grantor's spouse, or in discharge of the grantor's legal obligations. Based solely on the facts and representations submitted, we conclude that a living grantor's ownership interest in Trust Company or membership on its board of directors or any of its committees will not give the grantor an interest or power that would cause that grantor to be treated as an owner of any portion of the trusts under § 677.

RULING 5

Section 678(a) provides, in general, that a person other than the grantor shall be treated as the owner of any portion of a trust with respect to which (1) such person has a power exercisable solely by himself to vest the corpus or the income therefrom in himself, or (2) such person has previously partially released or otherwise modified such a power and after the release or modification retains such control as would, within the principles of §§ 671 to 677, inclusive, subject a grantor of a trust to treatment as the owner thereof.

Based solely on the facts and representations submitted, including the provision of the bylaws of Trust Company that prohibits any family member from taking part in any discretionary distribution decision with regard to any trust for which Trust Company is acting as trustee, we conclude that no beneficiary of a trust for which Trust Company will act as trustee has a power exercisable solely by that beneficiary to vest the trust corpus or income in themselves as a result of that beneficiary's ownership interest in Trust Company or membership on its board of directors or any of its committees.

RULING 6

Section 2036(a) provides that the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in the case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, under which he has

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retained for his life or for any period not ascertainable without reference to his death or for any period that does not in fact end before his death –

- (1) the possession or enjoyment of, or the right to the income from, the property, or
- (2) the right either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom.

Section 2036(b)(1) provides in part that for the purposes of § 2036(b)(1), a corporation shall be treated as a controlled corporation if, at any time after the transfer of the property and during the three-year period ending on the date of the decedent's death, the decedent owned (with the application of § 318), or had the right (either alone or in conjunction with any person) to vote, stock possessing at least twenty percent of the total combined voting power of all classes of stock.

Section 20.2036-1(b)(3) provides in part that if a decedent reserved the unrestricted power to remove or discharge a trustee at any time and to appoint himself as trustee, the decedent is considered as having the powers of the trustee.

Section 2038(a)(1) provides that the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in the case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, where the exercise of a power (in whatever capacity exercisable) by the decedent alone or by the decedent in conjunction with any other person (without regard to when or from what source the decedent acquired the power), to alter, amend, revoke, or terminate, or where any power is relinquished during the three-year period ending on the date of decedent's death.

Section 20.2038-1(a)(3) provides in part that if a decedent had the unrestricted power to remove or discharge a trustee at any time and appoint himself trustee, the decedent is considered as having the powers of the trustee.

Section 2041(a)(2) provides that the value of the gross estate shall include the value of all property to the extent of any property with respect to which the decedent has, at the time of his death, a general power of appointment created after October 21, 1942, or with respect to which the decedent has at any time exercised or released a power of appointment by a disposition that is of such nature that if it were a transfer of property owned by the decedent the property would be includible in the decedent's gross estate under §§ 2035 to 2038, inclusive. For purposes of § 2041(a)(2), the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of

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a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

Section 2041(b)(1) provides that a general power of appointment is a power that is exercisable in favor of the decedent, the decedent's estate, the decedent's creditors, or the creditors of the decedent's estate. However, a power to consume, invade, or appropriate property for the benefit of the decedent that is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent shall not be deemed a general power of appointment.

Section 20.2041-1(b)(1) provides, in part, that a donee may have a power of appointment if he has the power to remove or discharge a trustee and appoint himself. For example, if under the terms of the instrument, the trustee or his successor has the power to appoint the principal of the trust for the benefit of individuals including himself, and the decedent has the unrestricted power to remove or discharge the trustee at any time and appoint any other person including himself, the decedent is considered as having a power of appointment. However, the mere power of management, investment, custody of assets, or the power to allocate receipts and disbursements as between income and principal, exercisable in a fiduciary capacity, whereby the holder has no power to enlarge or shift any of the beneficial interests therein except as an incidental consequence of the discharge of the fiduciary duties is not a power of appointment.

Rev. Rul. 95-58, 1995-2 C.B. 191, holds that a decedent/grantor's reservation of an unqualified power to remove a trustee and to appoint an individual or corporate successor trustee that is not related or subordinate to the decedent within the meaning of § 672(c), is not considered a reservation of the trustee's discretionary powers of distribution over the property transferred by the decedent/grantor to the trust. Accordingly, the trust corpus was not included in the decedent's gross estate under §§ 2036 or 2038. The ruling notes that the Eighth Circuit in Estate of Vak v. Commissioner, 973 F.2d 1409 (8th Cir. 1992), concluded that the decedent had not retained dominion and control over assets transferred to a trust by reason of his power to remove and replace the trustee with a party that was not related or subordinate to the decedent. Accordingly, the court held that under § 25.2511-2(c), the decedent made a completed gift when he created the trust and transferred assets to it.

Section 672(c) defines the term "related or subordinate party" to mean any nonadverse party who is (1) the grantor's spouse if living with the grantor; or (2) any one of the following: the grantor's father, mother, issue, brother or sister; an employee of the grantor; a corporation or any employee of a corporation in which the stock holdings of the grantor and the trust are significant from the viewpoint of voting control; a subordinate employee of a corporation in which the grantor is an executive.

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In order for §§ 2036-2038 to apply, the decedent must have made a transfer of property or any interest therein (except in the case of a bona fide sale for an adequate and full consideration in money or money's worth) under which the decedent retained an interest in, or power over, the income or corpus of the transferred property. For purposes of §§ 2036 and 2038, it is immaterial in what capacity the power was exercisable by the decedent.

The governing trust instruments prevent grantors and beneficiaries from directly participating in decisions regarding discretionary distributions from the trusts. Section 12.1 of the Trust Company Bylaws requires that at least one member of the board will not be a Family member, a grantor of, a donor to, or a current or contingent beneficiary of an affected trust. Affected trusts are trusts of which any member of the Family is a grantor, donor, or current or contingent beneficiary and for which the trustee does not have any discretionary power, other than an investment power, that is not limited by an ascertainable standard. Family is defined in section 12.5(d) as each living lineal descendant and spouse of a lineal descendant of Patriarch and Matriarch. Section 12.2, accordingly, restricts discretionary distribution decisions with respect to affected trusts to trust officers who are not descendants or the spouse of a descendant of Patriarch and Matriarch. Discretionary distribution decisions are initially made or reviewed by the Senior Trust Officer and can be appealed to the DDRC at a beneficiary's request. Under section 12.3 of the Trust Company Bylaws, neither a Senior Trust Officer nor a member of the DDRC may participate in discussions or decisions involving an affected trust if the officer or director, or his or her spouse, is a grantor, donor, or a current or contingent beneficiary of the trust. That section further prohibits Senior Trust Officers and members of the DDRC from participating in discussions or decisions with respect to any affected trust if the officer or director, or his or her spouse, is a member of the Family. Therefore, the grantors and the beneficiaries of the trusts discussed in this letter are sufficiently prohibited from participating in initial decisions and subsequent review of decisions regarding discretionary distributions from their own trusts. In addition, the structure of the bylaws prohibits the grantors and beneficiaries of A's branch and the other four branches of the family from participating in Trust Company's exercise of discretion to make distributions from any of the trusts by or for descendants of Patriarch and Matriarch, thus preventing the possibility of outside reciprocal agreements that may indirectly give members of A's branch of the family effective control over the discretionary distributions from the trusts discussed in this letter.

The combination of the firewall provision in the Trust Company Bylaws and the trustee provisions in each trust agreement preclude a donor of any of the trusts from having the retained dominion and control as contemplated by §§ 2036 or 2038. No grantor, therefore, will be considered as having the powers of the trustees under §§ 20.2036-1(b)(3) or 20.2038-1(a)(3) solely as a result of being a shareholder in or participating in the daily activities of Trust Company as they are precluded from

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participating in discretionary distribution decisions with respect to the trusts discussed in this letter, both directly by the trust agreement and indirectly when made by Trust Company. Therefore, neither the appointment of Trust Company as trustee of the trusts nor its exercise of the discretionary powers over distributions to beneficiaries of the trusts will result in the inclusion of any portion of the value of the trusts in the respective estate of a grantor one of the trusts discussed in this letter. Accordingly, based on the facts submitted and the representations made, we conclude that the appointment of Trust Company as a trustee of the trusts will not result in the inclusion of any portion of the value of the trusts in the estate of the respective grantor under §§ 2036 or 2038.

Furthermore, the combination of provisions also preclude a beneficiary from having the power to affect the beneficial enjoyment of the trust property as contemplated by § 2041. No beneficiary, therefore, will be considered as having the power of the trustees under § 20.2041-1(b)(1) solely as a result of being a shareholder in and participating in the daily activities of Trust Company as they are precluded from participating in discretionary distribution decisions with respect to the trusts discussed in this letter, both directly by the trust agreement and indirectly when made by Trust Company. Therefore, neither the appointment of Trust Company as trustee of the trusts nor its exercise of the discretionary powers over distributions to beneficiaries of the trusts will result in the inclusion of any portion of the value of the trusts in the respective estate of a beneficiary. We note that some of the trusts discussed in this letter provide certain beneficiaries a general power of appointment over part or all of the assets of the trust. The ruling provided in this letter does not imply that the value of the assets to which the general power of appointment pertains will not be included in a beneficiary's estate. Accordingly, based on the facts submitted and the representations made, we conclude that the implementation of the proposed trust restructuring plan and the appointment of Trust Company as an independent trustee of the trusts will not result in the inclusion of any portion of the value of the trusts in the estate of a beneficiary who is not granted a general power of appointment by the terms of the trust agreement under § 2041.

RULING 7

Section 2601 imposes a tax on every generation-skipping transfer.

Section 2611(a) defines the term "generation-skipping transfer" to include a taxable distribution, taxable termination, and a direct skip.

Each of the trusts discussed in this letter is a generation-skipping transfer trust because the trusts provide for distributions to one or more generation of beneficiaries below the grantors' generations. Trust 1, Trust 2, Trust 3, Trust 4, Trust 5, Trust 6, Trust 7, Trust 8, Trust 9, Trust 10, Trust 11, Trust 12, Trust 13, Trust 14, Trust 15, Trust 16, Trust 17, Trust 18, Trust 19, Trust 20, Trust 21, Trust 22, Trust 23, Trust 24,

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Trust 28, Trust 29, Trust 30, Trust 31, Trust 34, Trust 35, Trust 36, Trust 37, Trust 41, and Trust 42 were irrevocable on September 25, 1985. The trustees represent that there have been no additions, actual or constructive, to these trusts after September 25, 1985.

Under § 1433(b)(2)(A) of the Tax Reform Act of 1986 and § 26.2601-1(b)(1)(i) of the Generation-Skipping Transfer Tax Regulations, the generation-skipping transfer tax provisions do not apply to any generation-skipping transfer under a trust (as defined in § 2652(b)) that was irrevocable on September 25, 1985, but only to the extent that the transfer is not made out of corpus added to the trust after September 25, 1985 (or out of income attributable to corpus so added).

Section 26.2601-1(b)(1)(ii)(A) provides that any trust in existence on September 25, 1985, is considered an irrevocable trust except as provided in §§ 26.2601-1(b)(ii)(B) or (C), that relate to property includible in a grantor's gross estate under §§ 2038 and 2042. In the present case, Trust 1, Trust 2, Trust 3, Trust 4, Trust 5, Trust 6, Trust 7, Trust 8, Trust 9, Trust 10, Trust 11, Trust 12, Trust 13, Trust 14, Trust 15, Trust 16, Trust 17, Trust 18, Trust 19, Trust 20, Trust 21, Trust 22, Trust 23, Trust 24, Trust 28, Trust 29, Trust 30, Trust 31, Trust 34, Trust 35, Trust 36, Trust 37, Trust 41, and Trust 42 are considered to have been irrevocable on September 25, 1985, because neither § 2038 nor § 2042 applies.

Section 26.2601-1(b)(1)(v)(B) provides that the release, exercise, or lapse of a power of appointment (other than a general power of appointment as defined in § 2041(b)) is not treated as an addition to a trust if - (1) the power of appointment was created in an irrevocable trust that is not subject to chapter 13 under paragraph (b)(1) of this section; and (2) in the case of an exercise, the power of appointment is not exercised in a manner that may postpone or suspend the vesting, absolute ownership or power of alienation of an interest in property for a period, measured from the date of creation of the trust, extending beyond any life in being at the date of creation of the trust plus a period of twenty-one years plus, if necessary, a reasonable period of gestation (the perpetuities period). For purposes of paragraph (b)(1)(v)(B)(2), the exercise of a power of appointment that validly postpones or suspends the vesting, absolute ownership or power of alienation of an interest in property for a term of years that will not exceed ninety years (measured from the date of creation of the trust) will not be considered an exercise that postpones or suspends vesting, absolute ownership or the power of alienation beyond the perpetuities period. If a power is exercised by creating another power, it is deemed to be exercised to whatever extent the second power may be exercised.

Section 26.2601-1(b)(4) provides rules for determining when a modification, judicial construction, settlement agreement, or trustee action with respect to a trust that is exempt from the generation-skipping transfer tax under § 26.2601-1(b)(1), (2), or (3)

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(hereinafter referred to as an exempt trust) will not cause the trust to lose its exempt status. In general, unless specifically provided for otherwise, the rules contained in § 26.2601-1(b)(4) are applicable only for purposes of determining whether an exempt trust retains its exempt status for generation-skipping transfer tax purposes. Unless specifically noted, the rules do not apply in determining, for example, whether the transaction results in a gift subject to gift tax, or may cause the trust to be included in the gross estate of a beneficiary, or may result in the realization of capital gain for purposes of § 1001.

Section 26.2601-1(b)(4)(i)(D)(1) provides that a modification of the governing instrument of an exempt trust by judicial reformation, or nonjudicial reformation that is valid under applicable state law, will not cause an exempt trust to be subject to the provisions of chapter 13, if the modification does not shift a beneficial interest in the trust to any beneficiary who occupies a lower generation (as defined in § 2651) than the person or persons who held the beneficial interest prior to the modification, and the modification does not extend the time for vesting of any beneficial interest in the trust beyond the period provided in the original trust. Furthermore, a modification that is administrative in nature that only indirectly increases the amount transferred (for example, by lowering administrative costs or income taxes) will not be considered a shift in a beneficial interest in a trust.

Naming Trust Company as trustee of Trust 1, Trust 2, Trust 3, Trust 4, Trust 5, Trust 6, Trust 7, Trust 8, Trust 9, Trust 10, Trust 11, Trust 12, Trust 13, Trust 14, Trust 15, Trust 16, Trust 17, Trust 18, Trust 19, Trust 20, Trust 21, Trust 22, Trust 23, Trust 24, Trust 28, Trust 29, Trust 30, Trust 31, Trust 34, Trust 35, Trust 36, Trust 37, Trust 41, and Trust 42 is an administrative change and will not be considered a shift in a beneficial interest in a trust under § 26.2601-1(b)(4)(i)(D)(1)

Except as expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings it is subject to verification on examination.

Pursuant to the Power of Attorney on file with this office, a copy of this letter is being sent to your attorney.

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This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

James F. Hogan

James F. Hogan
Senior Technician Reviewer, Branch 9
Office of Associate Chief Counsel

(Passthroughs & Special Industries)

Enclosure

Copy of this letter for § 6110 purposes

cc: