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IRS Affirms GST-Exempt Trust Merger

Consolidating trusts remains a viable strategy for modern estate planning.

In Private Letter Ruling 202528006 (July 11, 2025), the Internal Revenue Service confirmed that merging two generation-skipping transfer (GST) tax-exempt irrevocable trusts created by different settlors, but for the same beneficiaries and with identical dispositive provisions, doesn't jeopardize their GST-exempt status. For trustees and advisors considering the consolidation of irrevocable trusts, this ruling confirms that, when executed properly, such a merger doesn't result in adverse GST consequences.

Merging irrevocable trusts can reduce administrative burdens, lower costs and simplify investment management. However, these mergers must be carefully planned, especially when GST-exempt trusts are involved, due to the complexity of the exemption and inclusion ratio rules under Chapter 13 of the Internal Revenue Code. Fortunately, this ruling contributes to a growing body of guidance supporting tax-neutral trust mergers when properly implemented.

Proposed Trust Merger

The PLR involved a married couple who each established a revocable trust. On the wife's death, her trust assets were transferred to a Family Trust. Because her available GST tax exemption exceeded the value of the Family Trust, the exemption was automatically allocated, resulting in a fully GST-exempt trust.

When the husband died, his trust assets funded an Exempt Trust for his descendants. His GST tax exemption also exceeded his trust's value and was automatically allocated, also resulting in a fully GST-exempt trust. At the same time, a portion of the Family Trust's assets funded a third trust, the wife's Exempt Trust for her descendants. The wife remained the transferor of her Exempt Trust, which continued with an inclusion ratio of zero.

Both trust agreements authorized the merger of any trust created by either spouse, as long as the trusts had the same trustee and substantially similar terms. The dispositive provisions of both the husband's and wife's Exempt Trusts were identical, and the same trustee administered both. Each agreement also waived the rule against perpetuities to the fullest extent permitted under applicable state law.

The trustee proposed merging the husband's Exempt Trust into the wife's Exempt Trust to simplify administration and improve investment management.

Safe Harbor Applies to Post-1985 Trusts

The IRS determined that the proposed merger wouldn't affect either trust's GST-exempt status. Importantly, this is the first time the IRS has addressed a merger involving trusts that are GST-exempt due to the allocation of GST tax exemption rather than "grandfathered" status.

Under Treasury Regulations Section 26.2601-1(b), a grandfathered GST trust is one that was irrevocable on or before Sept. 25, 1985. Any additions or modifications can cause loss of that status unless the safe harbor under Treas. Regs. Section 262601-1(b)(4) is satisfied. That regulation prohibits extending the duration of the trust or shifting interests to younger generation beneficiaries.

In previous PLRs, the IRS allowed the merger of *grandfathered* trusts with no adverse GST tax consequences if the terms and beneficiaries remained unchanged and no new beneficiaries were added. However, neither those rulings nor the Treasury regulations specifically address whether the safe harbor applies to post-1985 trusts that are GST-exempt through allocation of exemption.

In this PLR, the IRS highlighted that the same principles apply. It noted that a merger satisfying the safe harbor requirements for grandfathered trusts should also be tax neutral when applied to exemption allocated GST-exempt trusts. Citing Treas. Reg. §26.2601-1(b)(4)(i)(D) and Example 6, the IRS concluded that if there's no shift in beneficial interest to a younger generation and no extension of the trust term, a merger has no adverse GST tax consequences. Because the trusts had identical terms and beneficiaries, and they properly waived the rule against perpetuities, the IRS concluded that the merger was a permissible action that preserved the GST exemption.

Key Takeaways

1. Merging GST-exempt trusts is permissible when both trusts have an inclusion ratio of zero, and no change in beneficial interests or vesting periods occurs.

2. Identical terms and the same trustee were important to the IRS' conclusion. Practitioners should confirm that trust instruments include merger provisions and maintain dispositive consistency.

3. State law remains essential. In this case, the waiver of the rule against perpetuities enabled the trust to continue indefinitely without adverse GST tax consequences.

4. The ruling offers assurance that trustees may consolidate trusts for efficiency and administrative simplicity without negative GST tax consequences.

Although PLRs may not be cited as precedent under IRC Section 6110(k)(3), this ruling confirms that a properly executed trust merger, supported by governing documents, state law and consistent beneficiary rights, remains a viable strategy for modern estate planning.

For more information on merging trusts, see my article in the July/August 2025 issue of Trusts & Estates.

BAKER LAW

801 West South Boundary | Suite C
Perrysburg, OH 43551
567.806.5200
chad.baker@bakerlawltd.com