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GST Issues: Tricks and Traps for the Unwary

UT School of Law – 2015 Taxation Conference
and Estate Planning Workshop
December 4, 2015

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GSTT – Key Terms

- Transferor [pg 1]
 - GSTT starts with lifetime gift or transfer at death
 - Means **donor**, if lifetime gift
 - Means **decedent**, if transfer at death
 - Marital deduction switches transferor at beneficiary spouse's death (unless reverse QTIP election made)
 - New hypothetical transferor assigned after GST occurs
- Skip person [pg 3]
 - An individual 2 or more generations below transferor
 - Move-up rule shifts generations upward [pg 3]
 - Trust if all **present** interests held by skip persons

GSTT – Key Attributes

- Three types of taxable transfers
 - Direct skips [pg 5]
 - Taxable terminations [pg 6]
 - Taxable distributions [pg 7]
- Tax rate
 - Nominal rate = 40%
 - For direct skips = 28.6% (effective)
 - Other taxable transfers = 40% (effective)

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GSTT – Key Attributes

- Combined rates – Lifetime transfers

Type of Taxable Transfer	Maximum Combined Tax Rate	
	Death in 3 Years	Survives 3 Years
Direct Skip	57.1%	49.0%
Taxable Termination	64.0%	57.1%
Taxable Distribution	64.0%	57.1%

- Basis step-up lower in case of direct skip
 - Basis in appreciation element of gifted asset still increased to 64% of its value

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GSTT – Key Attributes

- Combined rates – Testamentary transfers

Type of Taxable Transfer	Maximum Combined Tax Rate
Direct Skip	57.1%
Taxable Termination	64.0%
Taxable Distribution	64.0%

- Deferral of GSTT does not save money
 - Tax on subsequent taxable termination or distribution consumes unchanging fraction (40%) of trust's assets
 - Direct skip increases amount skip person receives by 19.2%

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GSTT – Key Attributes

$$\text{GSTT} = \text{Taxable Amount} \times \text{Maximum FET Rate} \times \text{Inclusion Ratio ("IR")}$$

- Lifetime GST exemption [pg 12]
 - Same as gift/estate tax exemption
 - \$5 million, indexed
 - \$5,430,000 in 2015 and \$5,450,000 in 2016
- Example – Taxable termination
 - \$5 million transfer; allocate \$4 million GST exemption
 - $IR = 1 - (4,000,000 / 5,000,000) = 1 - .8 = .200$
 - \$6 million value at termination
 - $GSTT = 6,000,000 \times 40\% \times .200 = \$480,000$

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First appeared as part of the conference materials for the
2015 Stanley M. Johanson Estate Planning Workshop session
"GST Issues: Tricks and Traps for the Unwary"