

ST. MARY'S UNIVERSITY SCHOOL OF LAW

FEDERAL ESTATE AND GIFT TAX, LW8379

Professor Cochran

FINAL EXAMINATION

Fall Semester 1993

Instructions

1. This examination consists of three pages, plus this cover sheet. Please check to be sure you have all pages.
2. Your bluebooks and your copy of the exam are due four hours after you pick up the exam.
3. You may use your copy of the Internal Revenue Code and Regulations, the required course materials, and your own class notes and study notes. You may also use a pocket calculator. You may not use other materials, such as library materials or commercial outlines.
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EXAM NUMBER

1993

Ellie was born in 1923. She married Jock in 1945. Their first child, J.R., was born in 1948, and their second child, Bobby, was born in 1953. J.R. has one child, John Ross, who was born in 1982. Bobby has one child, Christopher, who was born in 1984. Jock died in 1989, leaving his entire estate (\$4 million after expenses and taxes) in trust, with the income payable to Ellie for life and the remainder to be distributed among Jock's lineal descendants in such proportions as Ellie directs in her will. You may assume that Jock never made any taxable gifts.

Since Jock's death, Ellie has been keeping company with Dusty. Dusty and Ellie have decided to get married. J.R. and Bobby are concerned, because Dusty is several years younger than Ellie -- Dusty was born in 1963. They fear that he is only after her money. To placate J.R. and Bobby, Ellie and Dusty enter into a pre-nuptial agreement. Dusty relinquishes all rights to Ellie's property in exchange for \$1 million in cash and securities, which Ellie transfers to Dusty on November 30, 1993. Ellie also agrees to leave Dusty her residence and all furnishings if she predeceases him. Also as part of the agreement, Ellie establishes five trusts, which are described below. Ellie and Dusty are married in January of 1994.

The five trusts, to which Ellie transfers \$1 million each on November 30, 1993, are as follows:

Trust #1 provides for all income to be paid to J.R. for life, remainder to John Ross. When the trust is established, the actuarial value of J.R.'s life estate is \$910,000, and the actuarial value of John Ross's remainder is \$90,000.

Trust #2 provides for all income to be paid to Bobby for life, remainder to Christopher. When the trust is established, the actuarial value of Bobby's life estate is \$930,000, and the actuarial value of Christopher's remainder is \$70,000.

Trust #3 provides for all income to be paid to Ellie for life, with the remainder to be divided equally between J.R. and Bobby upon Ellie's death. At the time the trust is established, Ellie's life estate has an actuarial value of \$680,000, and the two remainder interests are worth \$160,000 each.

Trust #4 provides for all income to be paid to Ellie's mother, Martha, for life, and the corpus is to be distributed to Ellie at Martha's death. If Ellie predeceases Martha, the trust is to terminate and the corpus is to be distributed to Martha outright. The actuarial value of Martha's life estate is \$300,000, the actuarial value of Ellie's reversion is \$600,000, and the actuarial value of Martha's contingent remainder is \$100,000.

(Continued on next page)

Trust #5 provides for all income to be paid to Ellie for life, with the corpus to be distributed to St. Mary's University at Ellie's death. The actuarial value of Ellie's life estate is \$680,000, and the actuarial value of the remainder is \$320,000.

All five trusts are irrevocable and managed by an independent trustee.

1995

Ellie dies in 1995, survived by Dusty, J.R., Bobby, John Ross, Christopher, and Martha. At the time of her death, Ellie is the outright owner of the following property:

| | |
|------------------------|--------------|
| Cash, Stocks, & Bonds | \$10,000,000 |
| Investment Real Estate | \$1,500,000 |
| Residence | \$1,000,000 |
| Household Furnishings | \$500,000 |
| Art Collection | \$700,000 |
| Clothing and Jewelry | \$300,000 |

Ellie's will gives the residence and furnishings to Dusty and leaves the balance of her estate, after payment of expenses and taxes, in equal shares to J.R. and Bobby. Ellie's will also provides that the corpus of Jock's trust, which now amounts to \$6 million, is to be divided into two equal shares. One share is to be paid to John Ross, and the other share is to be paid to Christopher. Under the terms of Jock's will, the share of each grandchild will be held in trust until he reaches age 35, but the trustee (a bank) has discretion to distribute income or corpus to the extent it is in the best interests of the beneficiary. The expenses of administering Ellie's estate total \$300,000.

At the time of Ellie's death, each of the five trusts she created in 1993 has a corpus of \$1,200,000. The actuarial value of J.R.'s life estate in Trust #1 is \$1,080,000, and the actuarial value of the remainder is \$120,000. The actuarial value of Bobby's life estate in Trust #2 is \$1,100,000, and the actuarial value of the remainder is \$100,000. Immediately before Ellie's death, her life estate in Trust #3 had an actuarial value of \$780,000 (as did the life estate in Trust #5), and the remainder had an actuarial value of \$420,000 (as did the remainder interest in Trust #5). Martha's life estate in Trust #4 had an actuarial value of \$330,000, Ellie's reversion had an actuarial value of \$740,000, and Martha's contingent remainder had an actuarial value of \$130,000 immediately before Ellie's death.

(The questions begin on the next page.)

Question One

- A. Determine the amount of Ellie's Taxable Gifts for 1993. Please explain.
- B. Assume that Ellie has made no Taxable Gifts in prior years. Determine Ellie's gift tax liability for 1993.
- C. Please discuss the current and future Generation Skipping Transfer Tax consequences of Ellie's 1993 transfers. Determine the amount of Generation Skipping Transfer Tax, if any, that Ellie will owe for 1993.

Question Two

- A. Determine the amount of Ellie's Gross Estate.
- B. Determine the amount of Ellie's Taxable Estate.
- C. Determine the Federal Estate Tax liability of Ellie's estate.
- D. Describe any Generation Skipping Transfers that occur at Ellie's death and determine the amount of Generation Skipping Transfer Tax liability, if any.

Notes:

- 1. You should assume that none of the property described on this exam is community property.*
- 2. Your ultimate answers may depend on whether certain elections are made (or have been made at some point in the past). Please indicate clearly your assumptions regarding whether such elections have or have not been made. You should describe generally how the result would differ under alternative assumptions, but you need not prepare alternative calculations.*

Federal Estate & Gift Tax, LW8379
Professor Cochran
Final Examination
Fall 1993



Question 1

A. Ellie's taxable gifts for 1993:

| | | |
|--|--|---------------------------|
| Trust #1 - | Gift of income interest to J.R. | \$ 910,000 |
| | Gift to John Ross of remainder | \$ 90,000 |
| Trust #2 | Gift of income interest to Bobby | \$ 930,000 |
| | Gift of remainder to Christopher | \$ 70,000 |
| Trust #3 | Gift falls under § 2702 so life estate is valued at -0- & Ellie makes gift of | \$1,000,000 |
| Trust #4 | Gift of entire interest (Reversion not qualified) | \$1,000,000 |
| Trust #5 | Gift doesn't meet requirements of qualified annuity or unitrust (taxable gift but not deductible) | \$ 320,000 |
| Gift of \$1 million to Dusty in exchange for relinquishing his marital property rights is a gift as his property rights are not consideration under the code in money or money's worth | | \$1,000,000 |
| Less: 4 \$10,000 exemptions [J.R.'s & Bobby's Life estate & Martha's present life estate; Dusty's current gift of \$1 mil cash] | | \$ 40,000 |
| 1993 Total amount of gifts | | <u><u>\$5,280,000</u></u> |

No \$ 10,000 exemption allowed for any future interests (remainders).

The charitable remainder to St. Mary's Law School is not deductible as it does not meet the requirements of a qualified charitable remainder annuity trust or a charitable remainder unitrust.

In Trust #5, Martha's transfer of \$680,000 life estate for herself is not a gift as a taxpayer cannot make a gift to himself. The gift of the charitable remainder is a gift for gift tax purposes, it just does not qualify for the charitable deduction (or the \$10,000 exclusion as it is also a future interest).

The promise to give Dusty Ellie's home and furnishings is not a present gift because Ellie has neither placed the home in trust or otherwise irrevocably conveyed Dusty's right to the home. If she did transfer the home into trust, the furnishings would not qualify for special exclusion under § 2702, only the home would qualify as a qualified interest.

B. Ellie's gift tax liability for 1993

| | |
|---|----------------------------|
| Ellie's total gifts after the § 2503(b) exclusion | \$ 5,280,000 |
| Tax on \$5,280,000 | 2,544,800 |
| Less: Unified Credit | 192,800 |
| | ----- |
| Total gift tax liability for 1993 | <u><u>\$ 2,352,000</u></u> |

Use of unified credit is mandatory for gift tax.

C. Current & Future GST tax consequences

Ellie's \$1 million gift to Dusty is a direct skip as Dusty is 40 years younger than Ellie and they were not married at the time she gifted him the money (which would automatically bump him up to her generation for GST tax purposes). The GST tax on this direct skip, if paid by Ellie will also be a part of her taxable gifts under § 2515. It is therefore necessary to calculate her GST tax for 1993 before computing her gift tax liability above. In this case, however, since Ellie has not to our knowledge ever made any gifts, her \$1 million GST exemption will cover any tax liability for GST taxes on this direct skip and our calculation of her 1993 gift tax liability will remain unchanged.

Whether or not the trusts to Ellie's sons for life with remainder to her grandson will be taxed as a direct skip or a taxable termination depends upon whether or not Jock made a QTIP election or a reverse QTIP election on his estate tax return. If a QTIP election only was made with regard to Ellie's life estate, then the transferor of the property will then be Ellie and any GST made by her will have to be covered by her \$1 million exclusion. If a reverse QTIP election is made under §

~~she would not be transferring property to her son Jock~~

OK

2652(a)(3), Jock will be considered the transferor for the portion of his estate which he elected the reverse QTIP, thus enabling his \$1 million exemption to be utilized to transfer wealth to generations below.

At the time the trusts are created, the trust is not considered a skip person because no person with a current interest is a skip person. When J.R. and Bobby die, there will be a taxable termination because all of the remaining trust corpus will be distributed to skip persons.

Because Ellie's only 1993 GST was the direct skip to Dusty, she will not owe any GST tax for 1993. She could, however, allocate a portion of her \$1 million exemption to the future GST taxable terminations which will arise out of the trusts she has created for her 2 grandchildren. This would depend upon whether or not some of the GST tax might be covered if Jock elected reverse QTIP for part of his estate and there was actually \$2 million of exemption to be spread throughout these transfers.

One reason she might want to allocate her exemption to other than the direct skip would be to freeze the value of the GST at the present value of what assets were placed in trust and not eventually incur GST taxes on an appreciated value of the remainder interest.

OUTSTANDING JOB ON
PART ONE

Question 2

A. Ellie's Gross Estate

| | | |
|--|---------------|--|
| Everything owned at death | \$ 14,000,000 | § 2033 |
| Corpus of trust from Jock's will (assuming he elected QTIP) | 6,000,000 | |
| Gift tax paid on gifts within 3 years of death under § 2035 | 2,352,000 | |
| Trust #3 included under § 2036 | 1,200,000 | |
| Trust #4 Ellie's reversion interest | 740,000 | ← 2037 includes Martha's contingent remainder, valued immediately before Ellie's death |
| Trust #5 § 2036 | 1,200,000 | |
| Total gross estate | \$ 25,492,000 | |

B & C. Ellie's taxable estate & tax

| | | |
|---|----------------------|---|
| Gross estate | \$ 25,492,000 | |
| Less: Expenses of administration | 300,000 | |
| Charity deduction | 420,000 | 1,200,000 - the entire corpus goes to St. Mary's |
| Marital deduction | 1,500,000 | |
| Taxable Estate | \$ 23,272,000 | |
| Plus: post-1976 taxable gifts not included in gross estate: | | |
| Trust #1 | 1,000,000 | 990 |
| Trust #2 | 1,000,000 | 990 |
| Gift to Dusty | 1,000,000 | 990 |
| Trust #4 gift of \$1 million less the \$740,000 reversion which is included in estate | 260,000 | |
| Total amount to compute tax | \$ 26,532,000 | |

| | | |
|--|----------------------|---|
| Tentative tax | 14,785,400 | ✓ |
| Less: gift tax payable on post 1976 gifts | 2,352,000 | |
| Less: Unified Credit | 192,800 | |
| Net estate tax payable | <u>\$ 12,240,600</u> | |

D. GST at Ellie's death

The \$6 million from Jock's trust which is to be distributed equally to John Ross and Christopher will be a direct skip as these are grandchildren of Ellie's. Even though the funds are to be held in trust for the 2 grandchildren until age 35, there is a present interest in the trust corpus because the independent trustee has full discretion to distribute corpus or income to each of the grandchildren as he sees fit. This is a direct skip because no person holding a present interest in the trust is a non-skip person & both interest holders are skip persons.. The 2 grandchildren are deemed to have a present interest in the trust because they have a present interest in receiving both income and/or principal as required under the trust instrument.

The \$1.5 million to Dusty involves no GST because even though he is 40 years younger than Ellie, he was married to her at her death and therefore has the same generation assignment as Ellie.

The Trust #1 and #2 will result in taxable terminations upon the death of J.R. and Bobby respectively, but Ellie's death does not trigger any GST on these 2 trusts.

GST rate = Maximum estate tax rate times the inclusion ratio

Inclusion ratio = 1 minus the applicable fraction

Applicable fraction = amount of exemption allocated to this transfer/ amount transferred.

If we assume that Ellie allocated all of her \$1 million exemption to the gift to Dusty of \$ 1 million prior to their marriage, the GST on this \$6 million direct skip will be as follows:

GST rate = 55% times 1 or 55%; 55% of \$6 million = 3,300,000

The applicable fraction would be zero because there would be no exemption left. Please note, however the previous discussion regarding a reverse QTIP election Jock could have made in order to fully utilize both his \$1 million exemption and Ellie's \$1 million exclusion for GST. The amount of exemption would depend upon this and whether or not Ellie elected to also allocate some of her \$1 million exemption to the future taxable terminations in the 2 trusts she set up for her son's with remainders to her grandchildren while she was alive.

Question 1

A. The first gift to address is Ellie's exchange of \$1,000,000 in cash and securities to Dusty on Nov. 30, 1993. The issue is whether or not Dusty provided valuable consideration for the exchange. Under contract law, Ellie might have an argument that the pre-nuptial agreement was adequate consideration for the money. However, 2512(b) says that when property is transferred for less than adequate consideration in "money or money's worth" shall be deemed a gift. A pre-nuptial agreement is not "money or money's worth". Also, Waynes is on point, in applying 2512 the court held that forfeiture of an income interest in an old trust was not consideration in "money or money's worth".

Addendum - Because Ellie and Dusty were not married until 1994, this gift will not qualify \Rightarrow for the marital deduction under 2523.

Thus, the \$1 million to Dusty would be a "completed gift" in 1993. The transfer of residence and furnishings is testamentary in nature because it was made contingent on whether or not Dusty survives her and if so it would take effect at her death. Thus, this is not a completed gift for gift tax purposes.

Trust #1 will be subject to a gift tax on the \$1 million corpus. 2512(c) says to value the gift at the date of the gift, as to the fair market value FMV. Trust #2 will also result in a "completed gift" for the same reasons noted above. A "completed gift" requires

relinquishing "dominion and control", although

donative intent is irrelevant for gift tax purposes.

(Weymer). Trust #3 - The general rule is that

the gift to the trust of the remainder to J.R.

and Bobby is all that would be subject to

gift tax. (2511 does allow gifts made to

trusts). However, 2702 applies here, which

involves Special Valuation Rules in case of transfers

of interests in trusts. It says that a transfer

of an interest to a family member (J.R. and

Bobby are her sons) is to be valued at the full

amount. None of the exceptions apply, thus

the amount of the gift is \$1,000,000. The

policy reason for this is that we don't want the trustee to be able to vary the income / remainder interests via inconsistent distributions. Trust #4

The amount of the gift would be the entire amount paid to the trust minus Ellis's reversion

\$2702 applies here too

interest. Thus, the gift, completed, is

\$400,000, including the contingent remainder. Trust #5.

The "completed gift" in this trust is the remainder to the charity of \$300,000. However, there is no

charitable deduction allowed under 2522 during

life because there are no qualified ^{charitable} "trusts"

involved. (C.R.A.T. or C.R.U.T.), Thus, she

will have to wait until death to take the

charitable deduction. Thus, Ellie's taxable gifts

for 1993 are as follows:

| | Dutty | <u>Present</u> | <u>Future</u> |
|------------------|-------------------|----------------|---------------|
| \$1,000,000 | Trust #1 | J.R. | John Rose |
| 1,000,000 | Trust #2 | Bobby | Christopher |
| 1,000,000 | Trust #3 | | |
| 400,000 | Trust #4 | Martha | Martha |
| 320,000 | Trust #5 | | Charity |
| <u>4,720,000</u> | = "Taxable Gifts" | | |

2503 says that "taxable gifts" mean the total amount of gifts made during the calendar year less deductions. As previously indicated, there are no charitable or marital deductions allowed.

2503 (b) - allows Ellie a \$10,000 exclusion from taxable gifts, per donee, made during the calendar year for all present interests and not future interests. Thus, Dutty, J.R., Bobby and Martha would all be entitled to the exclusion because their interests are present and not a remainder.

| | |
|------------------|----------------|
| \$4,720,000 | Taxable Gifts |
| - 40,000 | Exclusion |
| <u>4,680,000</u> | Taxable amount |

B. answer ↓

| | | |
|---------------------|---------------------------|----------------|
| \$ 4,680,000 | Taxable amount | |
| 2,214,800 | 2001(c) Imposition of Tax | 1,290,800 |
| <u>192,800</u> | 2505 Unified Credit | <u>924,000</u> |
| \$ <u>2,022,000</u> | Total gift tax due 1993 | |

(The above calculation assumed that Ellie had never made any prior gifts which would have pushed us up higher in the rate structure).

C. The first GST issue to address is whether the

\$1 million transfer to Dusty qualifies. The general

rule under 2651(d) of generation assignment

is that persons who are not direct descendants

shall be classified by total discrepancy in age.

Ellie is 40 years older than Dusty, thus,

2651(d) would assign Dusty to the 2nd generation

below the transfer would qualify as a

"direct skip" transfer under 2612(b). A Chap. 12

Completed gift + 2 or more generations removed.

However, (D) applies only if the person cannot be assigned according to 2651 (D) or (E). (E) applies to the marital relationship and would put Austey into the same category as the transferor.

However, my argument is going to be that like the disallowance of the marital deduction, GST is going to apply in this case because the 2 were not married as of 12/31/93.

Trust #1 is not a "skip-person" because J.R. has a present interest and he is not a skip person. On his death however, a taxable termination will occur and cause GST to apply.

Trust #2 - Not a "skip person" for the same reasons noted above. Taxable Termination on death.

Trust #3 has no GST implications at all because J.R. and Bobby are only 1 generation removed from the transferor.

Trust #4 has no GST implications because none of the trust recipients are below the generation of the transferor. The same is true for trust #5.

Thus, the total GST effect on Ellis's 1993 distributions are as follows:

| | |
|-------------|----------------------------|
| \$1,000,000 | "Direct skip" to Donly |
| 1,000,000 | GST exemption 2631 |
| <u>0</u> | GST tax liability for 1993 |

However, 2515 would apply here because the gift was a "direct skip". This would increase

the gift tax by $\$1,000,000 \times 55\%$ or $\$550,000$.

In addition, because Ellie has used all of her GST exemption, the inclusion ratio will be 1 (1-0) for trusts #1 and #2 upon their taxable termination. However, if Ellie received the property from Jack via the 2056(b)(7) election (which she would of had to make because Ellie's interest is terminable under 2056(b)(2)) ^{making} ~~she could~~ her the "transferor" for GST purposes, she could make a partial reverse Q-TIP election under 2652(2)(3) which effectively make Jack the transferor for GST purposes. The partial "splitting" of trusts

would be allowed under 2654-1(c)(2) if
it was a "fair" representation of the assets.

Very Good Job
on QUESTION ONE

Question #2

A. Ellie's Gross Estate:

1st we must determine what Ellie owned outright at death. 2033 would include this property and the valuation is "the moment after the decedent's death" at FMV (Goodman v. Branger) Under 2033 we would include all of the property listed (even the exempt property such as the residence and jewelry) for a total of \$14 million. The next issue is Jack's trust. Assuming a 2056(b)(9)

Q-TIP election was made (had to because

her interest was ^{2056(b)(2)} "terminable" if they wanted

deduction at Jack's death) at Jack's death,

the property would have passed ^{estate} tax free

under Jack's estate. Under normal

circumstances, had the Q-TIP election not

been made, nothing would be included

at Ellie's death because she has no interest

at death and was already taxed once in

Jack's estate. A marriage is deemed to be

1 economic unit. The Cost of the Q-TIP

election is that Ellie includes the entire

amount in her estate under 2044.

Under 207A, the surviving spouse's executor

can recover the tax payable out of the trust

assets, so the surviving spouse is not taxed

Addendum - Ellie had a power to appoint
the corpus at her death. This power
was non-general or "special" because
she had to appoint only to the direct
lineal descendants and could not appoint
to herself. Thus, 2041 would be N/A
assuming no Q-TIP election was made
by Jack's estate.

unfairly. Thus, at Ellie's death, she would include the entire \$6 million value in her estate under 2044.

Trust #1 - Ellie has no interest in Trust #1 and therefore would include ϕ in her estate. However, the issue of 2035 applies - Transfers made within 3 yrs. of death. 2035(d)(1) will act to exempt this transfer because the transfer tax was handled via the gift tax and the fact that 2035(d)(2) is N/A. However, 2035(c) will apply to bring back the wealth lost by payment of the gift tax.

Trust #2 - See discussion for trust #1.

Trust #3 - This is the classic 2036 transfer of property with a retained life estate.

Thus, the FMV of the entire corpus at death, \$1,200,000, will be brought back in as part of her "artificial gross estate".

Trust #4 - Ellie's gross estate would include the FMV of the trust minus

the value of Martha's life estate, at

death, under 2037. $\$1,200,000 - 330,000 = 870,000$
minus reversion $740,000 = \underline{\underline{\$130,000}}$

2037 applies when (1) Possession or enjoyment

can only be obtained by surviving the

Decedent. Martha's contingent remainder is
the only interest subject to this and the
value of the reversion is greater than 5th

immediately before death. (which it was

in this case). Thus, ^{\$130,000}
~~\$840,000~~ is the

amount included under 2031 at Ellie's

death. 2035 (d)(2) also applies. 2033 is

o/a because the value immediately after

death for Ellie is 0.

~~4~~

See West Blue Book! →

(cont.)

Trust #5 - Would include the FMV of the trust corpus at date of decedent's

death under 2036. Ellie retained a

life estate. She will be entitled

to a charitable deduction for the amount

that passes to the charity at death, \$420,000.

Ellie's total gross estate will be as follows:

| | |
|------------|--------------|
| 2033 | \$14,000,000 |
| 2044 | 6,000,000 |
| 2036 (T#3) | 1,200,000 |
| 2037 (T#4) | 130,000 |
| 2036 (T#5) | 1,200,000 |
| | <hr/> |
| | \$22,530,000 |

2035(6)?

B. In order to determine Ellie's taxable
estate the deductions have to be made:

2053 - \$300,000 of administration expenses

because it fits 1 of the categories set forth

under 2053.

They get the entire \$1,200,000 corpus!

2055 - \$420,000 to the St. Mary's Univ. via

the trust, which became absolute upon

her death.

2056 - ⁶1,500,000 for the residence and furnishings

to Ellie's husband Rusty. The "in trust"

is in fee and thus is not subject to the

terminable interest rule.

Thus, Ellie's taxable estate is as follows:

Gross Estate \$22,530,000

Deductions:

2053

\$300,000

2055

\$20,000

2056

1,500,000

2,220,000

Taxable Estate

\$20,310,000

+ 2035(c)

2,022,000

22,332,000

C. Tax liability:

Taxable Estate

\$22,332,000

+ Taxable gifts not
included in Gross Estate

Dusty \$1,000,000

Trust #1 1,200,000

Trust #2 1,200,000

Trust #3 excluded

400K-130K) Trust #4 \$270,000

Trust #5 320,000

3,990,000

3,990,000

Net estate Payable
~~minus estate tax paid~~

26,322,000

2001 Tax = 55⁰⁰

~~2,022,000~~
~~24,300,000~~

14,477,100

| | |
|---------------------------|-----------------------|
| 2001 Tax: | 14,477,100 |
| | 24,800,000 |
| | <u>192,800</u> |
| Less: Section 2010 credit | |
| Less: Gift tax paid | <u>2,022,000</u> |
| Net estate tax payable | <u>12,262,300</u> |

D. GST at Ellie's death:

The distribution, by will, to John Ross and Christopher in equal shares represents

a GST. The result is a "direct skip" ~~Taxable~~ ~~Exemption~~ OK

because the beneficiaries are 2 generations removed from the "transferor." Thus, section

2612 is met: Chap. 11 distribution + GST.

Ellie can make a partial reverse Q-TIP

election under 2652 which would make

Jack the "transfer" instead of her, thus allowing him to use his \$1 million GST Exemption. (see previous explanation as to why partial Q-TIP may be elected, although, here it doesn't matter because she has used up all her GST during life and therefore should reverse Q-TIP the whole.) The remaining 5 million would be subject to GST tax.

Trust #1 and Trust #2 are effected for GST purposes only upon J.R. and Bobby's death. The 2033 property left outright to J.R. and Bobby is not GST because they are only 1 generation removed.

And now that Dusty and Ellie were married, there is no GST as to his receipt of the bequests because he is now assigned to the same generation as Ellie.

We must also assume that John and Christopher's parents are still alive, otherwise the generation would be "bumped up" and no GST would occur.

The GST liability at Ellie's death:

would be:

| <u>Jack</u> | | <u>Ellie</u> | |
|------------------|-------------------|------------------|---------------------|
| 3,000,000 | | \$3,000,000 | |
| - 1,000,000 GST | | - | GST used up |
| <u>2,000,000</u> | | | inclusion ratio = 1 |
| <u>780,500</u> | GST (2001) Tax | <u>1,290,800</u> | GST (2001) Tax |