



American Institute of CPAs  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004-1081

October 31, 2016

The Honorable John A. Koskinen  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

The Honorable William J. Wilkins  
Chief Counsel  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Mr. Thomas West  
Tax Legislative Counsel  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Mr. Curtis G. Wilson  
Associate Chief Counsel for  
Passthroughs and Special Industries  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Re: Request to testify on [Proposed Regulations](#) regarding the valuation of interests in corporations and partnerships for estate, gift, and generation-skipping transfer (GST) tax purposes ([REG-163113-02](#), Docket ID [IRS-2016-0022](#))

Dear Messrs. Koskinen, Wilkins, West and Wilson:

The American Institute of CPAs (AICPA) requests to testify at the Department of the Treasury (“Treasury”) and the Internal Revenue Service (IRS or “Service”) public hearing on December 1, 2016, on the proposed regulations (REG-163113-02) regarding valuation of interests in corporations and partnerships for estate, gift, and GST tax purposes.

The AICPA will have two witnesses – one covering technical tax issues and one covering valuation issues. The witnesses for the AICPA are Justin P. Ransome, J.D., and Michelle F. Gallagher, CPA, ABV, CFF.

Mr. Ransome is the Chair of the AICPA Family Limited Partnership (FLP) Issues Task Force and a member of the AICPA Trust, Estate, and Gift Tax Technical Resource Panel. Mr. Ransome is a partner at Ernst & Young LLP.

Ms. Gallagher is the Chair of the AICPA ABV Credential Committee and ABV Exam Task Force and a member of the AICPA FLP Issues Task Force. She owns and operates the valuation and forensic accounting firm of Gallagher Valuation & Forensics, PLC and is a principal with the accounting firm of Gallagher, Flintoff & Klein, PLC in Lansing, Michigan.

The AICPA is the world’s largest member association representing the accounting profession, with more than 418,000 members in 143 countries and a history of serving the public interest since 1877. Our members advise clients on federal, state and international

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tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium size businesses, as well as America's largest businesses.

We have attached two brief outlines of the topics that the two speakers plan to cover on the AICPA comments on REG-163113-02. The AICPA plans to submit to the Treasury and IRS the full text of its comments prior to the hearing date.

We welcome the opportunity to discuss further these comments or answer any questions that you may have. You may contact me at (408) 924-3508, or [annette.nellen@sjsu.edu](mailto:annette.nellen@sjsu.edu); or you may contact Justin Ransome, Chair, AICPA FLP Issues Task Force, at (202) 327-7043 or [justin.ransome@ey.com](mailto:justin.ransome@ey.com); or Eileen Sherr, AICPA Senior Technical Manager, at (202) 434-9256, or [esherr@aicpa.org](mailto:esherr@aicpa.org).

Sincerely,



Annette Nellen, CPA, CGMA, Esq.  
Chair, Tax Executive Committee

cc: Ms. Catherine Veihmeyer Hughes, Estate and Gift Tax Attorney Advisor, Office of Tax Policy, Department of the Treasury  
Ms. Melissa Liquerman, Chief, Branch 4, Office of the Associate Chief Counsel for Passthroughs and Special Industries, Internal Revenue Service  
Ms. Leslie Finlow, Senior Technician Reviewer, Branch 4, Office of Associate Chief Counsel for Passthroughs and Special Industries, Internal Revenue Service  
Mr. John MacEachen, Attorney, Office of the Associate Chief Counsel for Passthroughs and Special Industries, Internal Revenue Service  
Ms. Regina Johnson, Publication Regulation Specialist, Internal Revenue Service

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### **Outline of Comments on Proposed Regulations (REG-163113-02)**

Regarding the Valuation of Interests in Corporations and Partnerships for Estate, Gift,  
and Generation-Skipping Transfer (GST) Tax Purposes  
([REG-163113-02](#), Docket ID [IRS-2016-0022](#))

**Submitted for the December 1, 2016 Public Hearing**

**Speaker: Justin Ransome**

#### I. Background

- A. The proposed regulations would amend Treas. Reg. § 25.2704-1 to address deathbed transfers that result in the lapse of a liquidation right and to clarify the treatment of a transfer that results in the creation of an assignee interest.
- B. The proposed regulations would amend Treas. Reg. § 25.2704-2 to refine the definition of the term “applicable restriction” by eliminating the comparison to the liquidation limitations of state law.
- C. The proposed regulations would add a new section, Prop. Reg. § 25.2704-3, to address restrictions on the liquidation of an individual interest in an entity and the effect of insubstantial interests held by persons who are not members of the family.

#### II. Technical Concerns

The AICPA has several technical concerns with the proposed regulations. The AICPA is concerned about:

- A. The substitution powers issues in the proposed regulations.
- B. The income tax charitable deduction for split interest trusts.
- C. Issues regarding pecuniary bequests.

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- D. The three-year look back rule.
- E. The interaction of the rules with the basis and basis consistency rules applicable for income tax purposes.
- F. Several issues in Prop. Reg. § 25.2704-2 regarding transfers subject to applicable restrictions.
- G. Issues in Prop. Reg. § 25.2704-3, regarding restrictions on the liquidation of an individual interest in an entity and the effect of insubstantial interests held by persons who are not members of the family.
- H. The effective date of the final regulations, especially in light of the need for sufficient time for taxpayers and practitioners to understand and implement the rules after they are finalized.

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([REG-163113-02](#), Docket ID [IRS-2016-0022](#))

**Submitted for the December 1, 2016 Public Hearing**

**Speaker: Michelle Gallagher**

#### I. Valuation Related Concerns

The AICPA has several valuation related concerns with the proposed regulations.  
The AICPA is concerned about:

- A. Redefining FMV.
- B. Redefining family control.
- C. Redefining marketability.

#### II. Recommendations

The AICPA recommends that the Treasury and IRS:

- A. Withdraw these proposed regulations, or
- B. Issue another set of proposed regulations, or
- C. If neither of the two above mentioned approaches is adopted, issue final regulations that take into account the comments from, and concerns raised by, the AICPA and other stakeholders.