



## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 20

[TD 10050]

RIN 1545-BQ88

### Revising Qualified Domestic Trust Regulations under Section 2056A to Update Outdated References and Procedures

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that amend the Federal estate tax regulations applicable to estates of decedents passing property to or for the benefit of a noncitizen spouse in a domestic trust that satisfies all of the requirements under applicable Federal tax law and regulations to be a qualified domestic trust and for which the executor of the decedent's estate has made a qualified domestic trust election. These final regulations modify the existing regulations to update outdated references, information, and procedures. These final regulations primarily affect the estates of decedents passing property to or for the benefit of a noncitizen spouse in a qualified domestic trust pursuant to applicable Federal tax law.

**DATES:** *Effective date:* These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

*Applicability dates:* For dates of applicability, see §§20.2056A-2(e), 20.2056A-4(e), 20.2056A-11(e), and 20.2056A-13.

**FOR FURTHER INFORMATION CONTACT:** Donna Douglas at 202-317-6859 (not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

##### **Authority**

This document contains amendments to the Estate Tax Regulations (26 CFR part 20) under section 2056A of the Internal Revenue Code (Code) related to qualified domestic trusts. These final regulations are issued under express delegations of authority provided under sections 2056A(a)(2), 2056A(e), and 7805(a) of the Code. Section 2056A(a)(2) authorizes the Secretary of the Treasury or the Secretary's delegate (Secretary) to promulgate regulations that will ensure the collection of the estate tax imposed under section 2056A(b). Section 2056A(e) authorizes the Secretary to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 2056A. Section 7805(a) directs the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

## **Background**

### *1. Statutory Overview*

Section 2056(d)(1) of the Code generally disallows a marital deduction for the value of property passing to a noncitizen spouse of a decedent or donor. However, section 2056(d)(2)(A) allows a marital deduction for such property passing to the decedent's surviving spouse in a qualified domestic trust (QDOT), as defined in section 2056A. Section 2056A of the Code was added by the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647) and further amended by the Revenue Reconciliation Act of 1989 (Pub. L. 101-239), the Revenue Reconciliation Act of 1990 (Pub. L. 101-508), the Taxpayer Relief Act of 1997 (Pub. L. 105-34), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107-16).

Generally, for purposes of sections 2056 and 2056A, section 2056A(a) defines the term "qualified domestic trust," with respect to any decedent, as any trust if (1) its trust instrument meets certain requirements regarding the identity and powers of the

trustee, (2) such trust meets such requirements as the Secretary may by regulations prescribe to ensure the collection of any tax imposed by section 2056A(b), and (3) an election under section 2056A by the executor of the decedent applies to such trust. Section 2056A(b) generally prescribes rules relating to a deferred estate tax on distributions of corpus from the QDOT during the spouse's lifetime and on the balance of the corpus held in the QDOT at the spouse's death (section 2056A estate tax). Section 2056A(c) provides definitions of certain relevant terms, and section 2056A(d) provides rules regarding the section 2056A election. Finally, section 2056A(e) directs the Secretary to prescribe regulations as may be necessary or appropriate to carry out the purposes of section 2056A.

## *2. Existing Regulatory Guidance under Section 2056A*

Proposed regulations addressing the application of sections 2056(d) and 2056A were published in the ***Federal Register*** (58 FR 305) on January 5, 1993 (1993 proposed regulations). The 1993 proposed regulations included proposed rules under §§20.2056A-1 through 20.2056A-13. Relevant to these final regulations, §20.2056A-2 of the 1993 proposed regulations set forth the proposed qualification requirements for a QDOT; §20.2056A-4 of the 1993 proposed regulations set forth the proposed procedures for conforming marital trusts and nontrust marital transfers to the requirements of a QDOT; and §20.2056A-11 of the 1993 proposed regulations set forth the proposed rules relating to filing requirements and payment of the section 2056A estate tax.

On August 22, 1995, after consideration of all written comments and public hearing testimony, the 1993 proposed regulations were adopted as final regulations by the publication of TD 8612 in the ***Federal Register*** (60 FR 43531), with one exception: §20.2056A-2(d) of the 1993 proposed regulations, which set forth proposed additional requirements to ensure collection of the section 2056A estate tax, was not finalized. On

the same date, the Department of the Treasury (Treasury Department) and the IRS published TD 8613 in the ***Federal Register*** (60 FR 43554), which contained temporary regulations under §20.2056A-2T(d) (1995 temporary regulations). The text of the 1995 temporary regulations also served, by cross-reference, as the text of reissued proposed regulations published on the same date in the ***Federal Register*** (60 FR 43574) to address and solicit further commentary on the additional requirements necessary to ensure collection of the section 2056A estate tax (1995 proposed regulations). On November 29, 1996, the Treasury Department and the IRS published TD 8686 in the ***Federal Register*** (61 FR 60551) to adopt §20.2056A-2(d) of the 1995 proposed regulations, with modifications in response to comments, as final regulations (1996 final regulations). In an apparent oversight, the 1996 final regulations did not update the references to §20.2056A-2T(d) found in §§20.2056A-2, 20.2056A-4, and 20.2056A-11.

On August 21, 2024, the Treasury Department and the IRS published in the ***Federal Register*** (89 FR 67580) a notice of proposed rulemaking (REG-119683-22). The proposed regulations would amend existing §§20.2056A-2, 20.2056A-4, 20.2056A-11, and 20.2056A-13 to update outdated references, information, and procedures.

First, the proposed regulations would update §§20.2056A-2, 20.2056A-4, and 20.2056A-11 of the Estate Tax Regulations to remove outdated references to §20.2056A-2T(d). Second, the proposed regulations would update §20.2056A-2 to correct outdated references to a publication, to IRS officials and offices, and to procedures and addresses to be used by certain trustees to provide a security instrument to satisfy the requirements of a QDOT. Third, the proposed regulations would update §20.2056A-2(d)(1)(iii) to amend the definition of “finally determined” because the definition of that term in existing regulations includes an outdated reference to the issuance of an estate tax closing letter. Fourth, the proposed

regulations would update §§20.2056A-4 and 20.2056A-11 to properly identify the titles of IRS officials authorized to enter into agreements with respect to the section 2056A estate tax and to grant extensions of time to file a Form 706-QDT, *U.S. Estate Tax Return for Qualified Domestic Trusts*, or to pay any section 2056A estate tax. Finally, the proposed regulations would update §20.2056A-13 to reflect new applicability dates related to amendments that would be made by the proposed regulations.

### 3. *Public Hearing and Comments*

Because no public hearing was requested, the Treasury Department and the IRS did not hold a public hearing on the proposed regulations. The Treasury Department and the IRS received two written comments on the proposed regulations. The written comments are available for public inspection at <https://www.regulations.gov> or upon request.

After consideration of the comments and additional consideration of certain aspects of the proposed regulations, the Treasury Department and the IRS are adopting the proposed regulations with two revisions.

#### **Summary of Comments and Explanation of Revisions**

One commenter opined that, by leaving the substance of the regulations unaltered, the Treasury Department and the IRS are allowing for a more effective tax code by focusing solely on the outdated terminology and leaving the function of the Code unchanged. More specifically, the commenter praised the existing regulations for establishing procedures by which a non-citizen spouse may qualify for the marital deduction (1) by establishing a QDOT and transferring to it property that otherwise would have passed directly to the spouse, and (2) in the case of a plan, annuity, or other arrangement which is not assignable or transferable, by allowing the property to be treated as passing in the form of a QDOT, notwithstanding that the spouse does not irrevocably transfer or assign the annuity or other payment to the QDOT. Finally, the

commenter suggested increasing the basic exclusion amount to relieve taxpayers with estates of less value than that amount from the expense of estate planning and from incurring "excessive" Federal estate and gift taxes. The basic exclusion amount applicable to the Federal estate and gift taxes is determined by statute and therefore cannot be changed by regulations. Accordingly, this suggestion has not been adopted.

Another commenter noted that the proposed regulations would clarify the guidance for complying with the existing section 2056A regulations, and that this would save taxpayers time and money, as well as raise taxpayer confidence in the tax system by supporting equity and taxpayer's rights. The commenter continued, however, that the IRS has a mission that includes collecting the proper amount of tax revenue, at the least cost to the public, by efficiently applying the tax law with integrity and fairness. The commenter suggested that, to further this end, before issuing the final regulations, the Treasury Department and the IRS research the cost of QDOT compliance versus the amount of section 2056A estate tax revenue and consider overhauling the entire QDOT system and the ways QDOTs now can be structured to avoid or delay the imposition of the section 2056A estate tax. Modification of the entire QDOT system would first require a change in the terms of section 2056A itself, a change that can only be achieved by legislation. Accordingly, this suggestion has not been adopted.

After additional consideration of certain aspects of the proposed regulations that would improve tax administration, the Treasury Department and the IRS adopt two non-substantive changes to these regulations. First, identification of the office known as the "Estate Tax Advisory Group" throughout these regulations is clarified to include any successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov>. In the event of a restructuring of the IRS, this will allow the IRS to efficiently and quickly publicize the identity of the successor office, improving clarity for

taxpayers. Second, the applicability date is changed so that these regulations will apply on and after the regulations are published as final in the ***Federal Register***, instead of applying only to estates of decedents dying on or after the regulations are published as final in the ***Federal Register***. Because these regulations correct outdated references and procedures, this change will reduce confusion and ensure all taxpayers are able to utilize the updated references and procedures from the time of publication of these regulations in the ***Federal Register***.

## **Special Analyses**

### *I. Regulatory Planning and Review*

These final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

### *II. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The final regulations update the existing regulations under section 2056A by modifying and replacing outdated references, information, and procedures, such as references to IRS officials, offices, and addresses that no longer exist and references to temporary regulations. The collections of information within these final regulations include reporting and third-party disclosure requirements imposed by the IRS to ensure

that the IRS has been provided with adequate security for the collection of the section 2056A estate tax, to allow marital trusts and nontrust marital transfers to be conformed to the requirements of a QDOT, and to provide extensions of time for the payment of section 2056A estate tax.

The final regulations include third-party disclosure and reporting requirements under §20.2056A-2(d)(1)(i) for surety and banks to notify trustees and the IRS of the failure to renew a bond or letter of credit. These collection requirements are already approved by OMB under 1545-1443 for all filers. The final regulations do not change the already approved collection requirements, and only modify the location of where to file. An update to the filing location does not change the already approved burden.

The final regulations include reporting requirements related to a security instrument used to meet the qualifications of a QDOT and filed at the time the executor of an estate files a Form 706 or 706-NA. The final regulations also include reporting requirements related to Form 706-QDT used to calculate and report the section 2056A estate tax due or to notify the IRS that the trust is exempt from future filing because a noncitizen spouse has become a citizen. These reporting requirements are already approved by OMB under 1545-1443 for all filers. The final regulations do not substantively change the collection requirements, and only modify the location of where to file the security instruments and arrangements. An update to the filing location does not change the already approved burden.

The final regulations include reporting requirements related to requesting extensions using Form 4768 to file Form 706-QDT, Form 706, and Form 706-NA. These reporting requirements are already approved by OMB under 1545-0181 for all filers. The final regulations do not substantively change the collection requirements, and only modify the location of where to file the extension. An update to the filing location does not change the already approved burden.

Books and records relating to a collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

### *III. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the final regulations will not have a significant economic impact on a substantial number of small entities. This rule primarily affects individuals (or their estates) and trusts, which are not small entities for purposes of the Regulatory Flexibility Act. Although it is anticipated that there may be an incremental economic impact on executors that are small entities, including entities that provide tax and legal services that assist individuals in preparing tax returns, any impact will not be significant and will not affect a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

### *IV. Section 7805(f)*

Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

### *V. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

## VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments and is not required by statute, or preempts State law unless the agency meets the consultation and funding requirements of section 6 of the executive order. These final regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the executive order.

### **Drafting Information**

The principal author of these final regulations is Donna Douglas of the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates). However, other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 20**

Estate taxes, Reporting and recordkeeping requirements.

### **Adoption of Amendments to the Regulations**

Accordingly, the Treasury Department and the IRS are amending 26 CFR part 20 as follows:

#### **PART 20 – ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954**

**Paragraph 1.** The authority citation for part 20 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805.

\* \* \* \* \*

**Par. 2.** Section 20.2056A-0 is amended by:

1. Revising the entry for paragraph (d)(6) of §20.2056A-2;
2. Adding an entry for paragraph (e) of §20.2056A-2;
3. Adding an entry for paragraph (e) of §20.2056A-4; and

4. Adding an entry for paragraph (e) of §20.2056A-11.

The revision and additions read as follows:

**§20.2056A-0 Table of contents.**

\* \* \* \* \*

*§20.2056A-2 Requirements for qualified domestic trust.*

\* \* \* \* \*

(d) \* \* \*

(6) Special rules.

(e) Applicability date.

\* \* \* \* \*

*§20.2056A-4 Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust.*

\* \* \* \* \*

(e) Applicability date.

\* \* \* \* \*

*§20.2056A-11 Filing requirements and payment of the section 2056A estate tax.*

\* \* \* \* \*

(e) Applicability date.

\* \* \* \* \*

**Par. 3.** Section 20.2056A-2 is amended by:

1. Revising the first sentence of paragraph (a);
2. Revising paragraph (b)(2);
3. Revising the first sentence of paragraph (b)(3);
4. Removing the fourth sentence of paragraph (d)(1)(i)(B)(1) and adding in its place two new sentences;
5. Revising and republishing paragraph (d)(1)(i)(B)(2);
6. Revising the first sentence of paragraph (d)(1)(i)(B)(4), and adding a new sentence at the end of the paragraph;
7. Removing the fourth sentence of paragraph (d)(1)(i)(C)(1) and adding in its place two new sentences;

8. Revising and republishing paragraph (d)(1)(i)(C)(2);
9. Revising and republishing paragraph (d)(1)(i)(C)(3);
10. Revising the first sentence of paragraph (d)(1)(i)(C)(5), and adding a new sentence at the end of the paragraph;
11. Revising paragraph (d)(1)(iii);
12. Revising the paragraph heading of paragraph (d)(6);
13. Removing paragraph (d)(6)(i);
14. Redesignating paragraphs (d)(6)(ii) and (iii) as paragraphs (d)(6)(i) and (ii) respectively; and
15. Adding paragraph (e).

The revisions and additions read as follows:

**§20.2056A-2 Requirements for qualified domestic trust.**

(a) \* \* \* To qualify as a qualified domestic trust (QDOT), the requirements of paragraphs (b) through (d) of this section must be satisfied. \* \* \*

(b) \* \* \*

(2) *Property passing outright to spouse.* If property does not pass from a decedent to a QDOT, but passes to a noncitizen surviving spouse in a form that meets the requirements for a marital deduction without regard to section 2056(d)(1)(A), and that is not described in paragraph (b)(1) of this section, the surviving spouse must either actually transfer the property, or irrevocably assign the property, to a trust (whether created by the decedent, by the decedent's executor, or by the surviving spouse) that meets the requirements of paragraphs (c) and (d) of this section (pertaining, respectively, to statutory requirements and regulatory requirements imposed to ensure collection of tax) prior to the filing of the estate tax return for the decedent's estate and on or before the last date prescribed by law that the QDOT election may be made (see §20.2056A-3(a)).

(3) \* \* \* If property does not pass from a decedent to a QDOT, but passes under a plan or other arrangement that meets the requirements for a marital deduction without regard to section 2056(d)(1)(A) and whose payments are not assignable or transferable (see §20.2056A-4(c)), the property is treated as meeting the requirements of this section, and the requirements of §20.2056A-2(d), if the requirements of §20.2056A-4(c) are satisfied. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) \* \* \*

(1) \* \* \* Any notice of failure to renew is required to be sent to the Estate Tax Advisory Group of the Internal Revenue Service or successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov>. To determine the correct address to use when submitting the required documentation, see IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms or instructions or on <https://www.irs.gov>. \* \* \*

(2) *Form of bond.*—The bond must be in the following form (or in a form that is the same as the following form in all material respects), or in such alternative form as the Commissioner may prescribe by guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter):

Bond in Favor of the Internal Revenue Service To Secure Payment of Section 2056A Estate Tax Imposed Under Section 2056A(b) of the Internal Revenue Code.

**KNOW ALL PERSONS BY THESE PRESENTS**, That the undersigned, \_\_\_\_\_, the SURETY, and \_\_\_\_\_, the PRINCIPAL, are irrevocably held and firmly bound to pay the Internal Revenue Service upon written demand that amount of any tax up to \$

*[amount determined under paragraph (d)(1)(i)(B) of this section]*, imposed under section 2056A(b)(1) of the Internal Revenue Code (including penalties and interest on said tax) determined by the Internal Revenue Service to be payable with respect to the principal as trustee for: *[Identify trust and governing instrument, name and address of trustee]*, a qualified domestic trust as defined in section 2056A of the Internal Revenue Code, for the payment of which the said Principal and said Surety, bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, The Internal Revenue Service may demand payment under this bond at any time if the Internal Revenue Service in its sole discretion determines that a taxable event with respect to the trust has occurred; the trust no longer qualifies as a qualified domestic trust as described in section 2056A(a) of the Internal Revenue Code and the regulations promulgated thereunder, or a distribution subject to the tax imposed under section 2056A(b)(1) has been made. Demand by the Internal Revenue Service for payment may be made whether or not the tax and tax return (Form 706-QDT) with respect to the taxable event is due at the time of such demand, or an assessment has been made by the Internal Revenue Service with respect to the tax.

**NOW THEREFORE**, The condition of this obligation is such that it must not be cancelled and, if payment of all tax liability finally determined to be imposed under section 2056A(b) is made, then this obligation is null and void; otherwise, this obligation is to remain in full force and effect for one year from its effective date and is to be automatically renewable on an annual basis unless, at least 60 days prior to the expiration date, including periods of automatic renewals, the surety mails to the U.S. Trustee and the Internal Revenue Service by Registered or Certified Mail, return receipt requested, notice of the failure to renew. Receipt of this notice of failure to renew by the Internal Revenue Service may be considered a taxable event. The Internal Revenue

Service will not draw upon the bond if, within 30 days of receipt of the notice of failure to renew, the trustee notifies the Internal Revenue Service that an alternate security arrangement has been secured and that the arrangement will take effect immediately prior to or upon expiration of the bond. The surety remains liable for all taxable events occurring prior to the date of expiration. All notices required to be sent to the Internal Revenue Service under this instrument should be sent to the Estate Tax Advisory Group of the Internal Revenue Service or successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov>. To determine the correct address to use when submitting the required documentation, see IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms or instructions or on <https://www.irs.gov>.

This bond shall be effective as of \_\_\_\_\_

Principal \_\_\_\_\_

Date \_\_\_\_\_

Surety \_\_\_\_\_

Date \_\_\_\_\_

\* \* \* \* \*

(4) \* \* \* The bond is to be filed (separately from the decedent's Federal estate tax return) by submitting it directly to the Estate Tax Advisory Group of the Internal Revenue Service or successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov> on or before the later of the filing date or due date of the decedent's Federal estate tax return (Form 706 or 706-NA) unless an extension for filing the bond is granted under §301.9100 of this chapter. \* \* \* To determine the correct address to use when submitting the required documentation, see IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms or instructions or on <https://www.irs.gov>.

(C) \* \* \*

(1) \* \* \* Any notice of failure to renew or closure of a U.S. branch of a foreign bank required to be sent to the Internal Revenue Service must be sent to the Estate Tax Advisory Group of the Internal Revenue Service or successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov>. To determine the correct address to use when submitting the required documentation, see IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms or instructions or on <https://www.irs.gov>. \* \* \*

(2) *Form of letter of credit.*--The letter of credit must be made in the following form (or in a form that is the same as the following form in all material respects), or an alternative form that the Commissioner prescribes by guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter):

[Issue Date]

To: Internal Revenue Service

Attention: Estate Tax Advisory Group (or successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov>). (See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms or instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation).

[Or in the case of nonresident noncitizen decedents and United States citizens who die domiciled outside the United States,

To: Estate Tax Group,

Assistant Commissioner (International)

950 L'Enfant Plaza

CP:IN:D:C:EX:HQ:1114

Washington, DC 20224]

Dear Sirs:

We hereby establish our irrevocable Letter of Credit No.--in your favor for drawings up to U.S. \$ *[Applicant should provide bank with amount which Applicant determined under paragraph (d)(1)(i)(C)]* effective immediately. This Letter of Credit is issued, presentable and payable at our office at \_\_\_\_\_ and expires at 3:00 p.m. [EDT, EST, CDT, CST, MDT, MST, PDT, PST] on \_\_\_\_\_ at said office.

For information and reference only, we are informed that this Letter of Credit relates to *[Applicants should provide bank with the identity of qualified domestic trust and governing instrument]*, and the name, address, and identifying number of the trustee is *[Applicant should provide bank with the trustee name, address and the QDOT's TIN number, if any]*.

Drawings on this Letter of Credit are available upon presentation of the following documents:

1. Your draft drawn at sight on us bearing our Letter of Credit No. \_\_\_\_\_; and
2. Your signed statement as follows:

The amount of the accompanying draft is payable under *[identify bank]* irrevocable Letter of Credit No. \_\_\_\_\_ pursuant to section 2056A of the Internal Revenue Code and the regulations promulgated thereunder, because the Internal Revenue Service in its sole discretion has determined that a "taxable event" with respect to the trust has occurred; e.g., the trust no longer qualifies as a qualified domestic trust as described in section 2056A of the Internal Revenue Code and regulations promulgated thereunder, or a distribution subject to the tax imposed under section 2056A(b)(1) of the Internal Revenue Code has been made.

Except as expressly stated herein, this undertaking is not subject to any agreement, requirement or qualification. The obligation of *[Name of Issuing Bank]*

under this Letter of Credit is the individual obligation of *[Name of Issuing Bank]* and is in no way contingent upon reimbursement with respect thereto.

It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for a period of one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we mail to you and to the U.S. Trustee notice by Registered Mail or Certified Mail, return receipt requested, or by courier to your and the trustee's address indicated above, that we elect not to consider this Letter of Credit renewed for any such additional period. Upon receipt of this notice, you may draw hereunder on or before the then current expiration date, by presentation of your draft and statement as stipulated above.

[In the case of a letter of credit issued by a U.S. branch of a foreign bank the following language must be added]. It is a further condition of this Letter of Credit that if the U.S. branch of *[name of foreign bank]* is to be closed, that at least sixty days prior to closing, we mail to you and the U.S. Trustee notice by Registered Mail or Certified Mail, return receipt requested, or by courier to your and the U.S. Trustee's address indicated above, that this branch will be closing. This notice will specify the actual date of closing. Upon receipt of the notice, you may draw hereunder on or before the date of closure, by presentation of your draft and statement as stipulated above.

Except where otherwise stated herein, this Letter of Credit is subject to the most recent revision of the Uniform Customs and Practice for Documentary Credits published by the International Chamber of Commerce (ICC), which can be found on <https://www.iccwbo.org>. If we notify you of our election not to consider this Letter of Credit renewed and the expiration date occurs during an interruption of business described in the most recent revision of that publication, unless you had consented to cancellation prior to the expiration date, the bank hereby specifically agrees to effect payment if this Letter of Credit is drawn against within 30 days after the resumption of

business.

Except as stated herein, this Letter of Credit cannot be modified or revoked without your consent.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

(3) *Form of confirmation.*-- If the requirements of this paragraph (d)(1)(i)(C) are satisfied by the issuance of a letter of credit by a foreign bank with confirmation by a bank as defined in section 581, the confirmation must be made in the following form (or in a form that is the same as the following form in all material respects), or an alternative form that the Commissioner prescribes by guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter):

[Issue Date]

To: Internal Revenue Service

Attention: Estate Tax Advisory Group (or successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov>). (See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms or instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation).

[or in the case of nonresident noncitizens decedents and United States citizens who die domiciled outside the United States,

To: Estate Tax Group,

Assistant Commissioner (International)

950 L'Enfant Plaza

CP:IN:D:C:EX:HQ:1114

Washington, DC 20024]

Dear Sirs:

We hereby confirm the enclosed irrevocable Letter of Credit No. \_\_\_\_\_, and amendments thereto, if any, in your favor by \_\_\_\_\_ [Issuing Bank] for drawings up to U.S. \$ [same amount as in initial Letter of Credit] effective immediately. This confirmation is issued, presentable and payable at our office at \_\_\_\_\_ and expires at 3:00 p.m. [EDT, EST, CDT, CST, MDT, MST, PDT, PST] on \_\_\_\_\_ at said office.

For information and reference only, we are informed that this Confirmation relates to [Applicant should provide bank with the identity of qualified domestic trust and governing instrument], and the name, address, and identifying number of the trustee is [Applicant should provide bank with the trustee name, address and the QDOT's TIN number, if any].

We hereby undertake to honor your sight draft(s) drawn as specified in the Letter of Credit.

Except as expressly stated herein, this undertaking is not subject to any agreement, condition, or qualification. The obligation of *[Name of Confirming Bank]* under this Confirmation is the individual obligation of *[Name of Confirming Bank]* and is in no way contingent upon reimbursement with respect thereto.

It is a condition of this Confirmation that it is deemed to be automatically extended without amendment for a period of one year from the expiration date hereof, or any future expiration date, unless at least sixty days prior to any expiration date, we send to you and to the U.S. Trustee notice by Registered Mail or Certified Mail, return receipt requested, or by courier to your and the trustee's addresses, respectively, indicated above, that we elect not to consider this Confirmation renewed for any additional period. Upon receipt of this notice by you, you may draw hereunder on or before the then current expiration date, by presentation of your draft and statement as stipulated above.

Except where otherwise stated herein, this Confirmation is subject to the most

recent version of the *Uniform Customs and Practice for Documentary Credits* published by the International Chamber of Commerce (ICC), which can be found on <https://www.iccwbo.org>. If we notify you of our election not to consider this Confirmation renewed and the expiration date occurs during an interruption of business described in the most recent version of that publication, unless you had consented to cancellation prior to the expiration date, the bank hereby specifically agrees to effect payment if this Confirmation is drawn against within 30 days after the resumption of business.

Except as stated herein, this Confirmation cannot be modified or revoked without your consent.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

\* \* \* \* \*

(5) \* \* \* The letter of credit (and confirmation, if applicable) is to be filed separately from the decedent's Federal estate tax return (Form 706 or Form 706-NA) by submitting it directly to the Estate Tax Advisory Group of the Internal Revenue Service or successor office as provided in IRS publications, forms or instructions, or on <https://www.irs.gov>, on or before the later of the filing date or the due date of the decedent's Federal estate tax return (unless an extension for filing the letter of credit is granted under §301.9100 of this chapter). \* \* \* To determine the correct address to use when submitting the required documentation, see IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms or instructions or on <https://www.irs.gov>.

\* \* \* \* \*

(iii) *Definition of finally determined*—(A) *In general*. For purposes of §20.2056A-2(d)(1)(i) and (ii), the fair market value of assets is the fair market value of those assets as finally determined for Federal estate tax purposes. That value is--

(1) The value reported on an estate tax return filed with the Internal Revenue Service, once the period of limitations on assessment (see section 6501) of estate tax has expired without that value having been timely adjusted by the Internal Revenue Service;

(2) The value determined or specified by the Internal Revenue Service for unreported property, or for reported property where the value determined or specified by the Internal Revenue Service differs from the value reported on an estate tax return filed with the Internal Revenue Service, once the period of limitations on assessment applicable to the estate tax has expired without that value having been timely contested by the executor;

(3) The value determined in a written agreement with the Internal Revenue Service (whether entered into during the course of the administrative proceedings between the estate and the Internal Revenue Service or after the commencement of litigation) once that written agreement has been executed by both the executor and the Internal Revenue Service and is binding on all parties (including, but not limited to, the executor, the Internal Revenue Service, and the beneficiaries); or

(4) The value determined by a court for the purpose of determining the estate tax liability of the estate, once the court's determination no longer can be appealed to any court.

(B) *Contested and Executor defined.* For purposes of this paragraph (d)(1)(iii), the term *contested* means to put at issue the value of property in a written communication to the Internal Revenue Service that identifies the specific property, states that the executor does not accept as correct the value of that property as determined or specified by the Internal Revenue Service, and provides the executor's claimed value for that property as determined in accordance with the requirements of section 2031, the corresponding regulations, and other applicable guidance. An issue

cannot be contested by a general protective statement or written communication that does not include each of these specified elements. For purposes of this paragraph (d)(1)(iii), the term *executor* includes any person described in section 2203, as expanded to include all persons required under section 6018(b) to file an estate tax return.

\* \* \* \* \*

(6) *Special rules.*

\* \* \* \* \*

(e) *Applicability date.* This section applies on and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**Par. 4.** Section 20.2056A-4 is amended by:

1. Revising the second sentence of paragraph (a)(1);
2. Revising the fifth and sixth sentences of paragraph (a)(2);
3. Revising the sixth sentence of paragraph (c)(1);
4. Revising and republishing paragraph (c)(6)(ii);
5. Revising and republishing paragraph (c)(7)(ii); and
6. Revising paragraph (e).

The revisions read as follows:

**§20.2056A-4 Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust.**

(a) \* \* \*

(1) \* \* \* For this purpose, the requirements of a QDOT include all of the applicable requirements set forth in §20.2056A-2. \* \* \*

(2) \* \* \* Thus, the trustee of the trust is responsible for filing the Form 706-QDT, paying any section 2056A estate tax that becomes due, and filing the annual statement required under §20.2056A-2(d)(3), if applicable. Failure to comply with these requirements may cause the trust to be subject to the anti-abuse rule under §20.2056A-

2(d)(1)(v). \* \* \*

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* In the case of a plan, annuity, or other arrangement which is not assignable or transferable (or is treated as such), the property passing under the plan from the decedent is treated as meeting the requirements of §20.2056A-2 (pertaining to the general requirements, qualified marital interest requirements, statutory requirements, and requirements to ensure collection of the tax) if the requirements of either paragraph (c)(2) or (3) of this section are satisfied. \* \* \*

\* \* \* \* \*

(6) \* \* \*

(ii) *Agreement.*—In order for a nonassignable annuity or other payment described in this paragraph (c) to qualify under paragraph (c)(2) of this section, the executor of the decedent's estate must file with the estate tax return the following Agreement To Pay Section 2056A Estate Tax, which must be signed by the surviving spouse of the decedent (or by the surviving spouse's legal representative if the surviving spouse is legally incompetent to sign the agreement):

I [*name*] hereby agree that I will report all annuity payments received under the [*name of plan or arrangement*] on Form 706-QDT for the calendar year and remit, on an annual basis, to the Internal Revenue Service the estate tax that is imposed under section 2056A(b)(1) of the Internal Revenue Code on the corpus portion of each annuity payment (as defined in §20.2056A-4(c)(4) of the Estate Tax Regulations) received under the plan during the calendar year. I also agree that Form 706-QDT is to be filed no later than April 15<sup>th</sup> of the year following the calendar year in which any annuity payments are received except that: in the case of annuity payments received in the year of my spouse's death, Form 706-QDT and the payment shall not be due prior to the due

date, including extensions, for filing my spouse's estate tax return or, if no return is filed, no later than 9 months from the date of my spouse's death (except if I am granted an extension of time to file Form 706-QDT under the provisions of §20.2056A-11); and in the year of my death, the Form 706-QDT must be filed and the payment made no later than the date my estate tax return is filed (or if no return is filed, no later than 9 months from the date of my death). I further agree that if I fail to timely file Form 706-QDT or to timely pay the tax imposed on the corpus portion of any annuity payment (determined after any extensions of time to pay granted to me under the provisions of §20.2056A-11), I may become immediately liable to pay the amount of the tax determined by application of section 2056A(b)(1) on the entire remaining present value of the annuity, calculated as of the beginning of the year in which the payment was received with respect to which I failed to timely pay the tax or failed to timely file the return. However, I may make an application for relief under §301.9100-1 of the Procedure and Administration Regulations, from the consequences of failing to timely file the Form 706-QDT or failing to timely pay the tax on the corpus portion. [The following sentence is applicable only in cases where the plan or arrangement is established and administered by a person or an entity that is located outside of the United States.] I agree, at the request of the Chief Tax Compliance Officer, IRS (or their delegate or designee or as otherwise provided in IRS publications, forms or instructions, or on <https://www.irs.gov>), to enter into a security agreement to secure my undertakings under this agreement.

(7) \* \* \*

(ii) *Agreement.*—In order for a nonassignable annuity or other payment described in this paragraph (c) to qualify under paragraph (c)(3) of this section, the executor of the decedent's estate must file with the estate tax return the following Agreement To Roll Over Annuity Payments, which must be signed by the surviving spouse of the decedent (or by the legal representative of the surviving spouse if the surviving spouse is legally

incompetent to sign the agreement):

I *[name]* hereby agree that within 60 days of receipt of each annuity payment paid under *[name of plan or arrangement]*, I will transfer an amount equal to percent (the corpus portion determined under §20.2056A-4(c)(4) of the Estate Tax Regulations) of each annuity payment to *[identify the QDOT]*. Further, I will report all annuity payments received during the calendar year under the *[name of plan or arrangement]* on Form 706-QDT including a schedule of transfers to the *[identify the QDOT]*. I also agree that Form 706-QDT is to be filed no later than April 15<sup>th</sup> of the year following the year in which any annuity payments are received except that: in the case of annuity payments received in the year of my spouse's death, Form 706-QDT shall not be due prior to the due date, including extensions, for filing my spouse's estate tax return, or, if no return is filed, no later than 9 months from the date of my spouse's death (except if I am granted an extension of time to file Form 706-QDT under the provisions of §20.2056A-11); and in the year of my death, the Form 706-QDT must be filed no later than the date my estate tax return is filed (or if no return is filed, no later than 9 months from the date of my death), and except if I am granted an extension of time to file Form 706-QDT under the provisions of §20.2056A-11. I further agree that if I fail to timely transfer any required amount with respect to any annuity payment, or fail to timely file Form 706-QDT reporting the transfers for any year, I may become immediately liable to pay the amount of the tax determined by application of section 2056A(b)(1) on the entire remaining present value of the annuity, calculated as of the beginning of the year in which the payment was received with respect to which I failed to make the timely transfer or timely file a return. However, I may make an application for relief under §301.9100-1 of the Procedure and Administration Regulations, from the consequences of failing to timely file Form 706-QDT or failing to timely transfer the corpus portion of any annuity payment to the QDOT. [The following sentence is applicable only in cases

where the plan or arrangement is established and administered by a person or an entity that is located outside of the United States.] I agree, at the request of the Chief Tax Compliance Officer, IRS (or their delegate or designee or as otherwise provided in IRS publications, forms or instructions, or on <https://www.irs.gov>), to enter into a security agreement to secure my undertakings under this agreement.

\* \* \* \* \*

(e) *Applicability date.* This section applies on and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**Par. 5.** Section 20.2056A-11 is amended by:

1. Revising the last sentence of paragraph (a);
2. Revising the last sentence of paragraph (c)(1);
3. Revising paragraph (c)(2); and
4. Adding paragraph (e).

The revisions and addition read as follows:

**§20.2056A-11 Filing requirements and payment of the section 2056A estate tax.**

(a) \* \* \* See also §20.2056A-5(c)(1) regarding the requirements for filing a Form 706-QDT in the case of a distribution to the surviving spouse on account of hardship, and §20.2056A-2(d)(3) regarding the requirements for filing Form 706-QDT in the case of the required annual statement.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* Such extension may be granted by the Advisory Group Managers (or their delegate or designee or as otherwise provided in IRS publications, forms or instructions, or on <https://www.irs.gov>).

(2) *Extension of time for paying tax under section 6161(a)(1).* An extension of time beyond the due date to pay any part of the estate tax imposed on lifetime

distributions under section 2056A(b)(1)(A), or imposed at the death of the surviving spouse under section 2056A(b)(1)(B), or imposed at the termination of the QDOT (such as on the death or resignation of the U.S. trustee), may be granted for a reasonable period of time, not to exceed 6 months (12 months in the case of the estate tax imposed under section 2056A(b)(1)(B) at the surviving spouse's death), by the Advisory Group Managers (or their delegate or designee or as otherwise provided in IRS publications, forms or instructions, or on <https://www.irs.gov>).

\* \* \* \* \*

(e) *Applicability date.* This section applies on and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**Par. 6.** Section 20.2056A-13 is amended by revising the section heading and the first sentence to read as follows:

**§20.2056A-13 Applicability dates.**

Except as provided in this section and in §§20.2056A-2(e), 20.2056A-4(e), and 20.2056A-11(e), the provisions of §§20.2056A-1 through 20.2056A-12 are applicable with respect to estates of decedents dying on or after August 22, 1995. \* \* \*

**Frank J. Bisignano,**  
*Chief Executive Officer (IRS).*

**Approved:** April 10, 2026.

**Kenneth J. Kies,**  
*Assistant Secretary of the Treasury (Tax Policy).*