

difference may be justified because of the uncertainty of the result if the question were litigated.

As discussed above, Settlement Agreement represents the resolution of bona fide controversies among the parties. All interested parties who hold or may hold an interest in Trust have been represented in the proceedings that culminated in Order approving Settlement Agreement. Further, based on the facts as presented, the terms of Settlement Agreement are the product of arm's length negotiations among all of the interested parties. Court approved Settlement Agreement. Settlement Agreement reflects the rights of the parties under the applicable State law that would be applied by the highest court of State and under federal law. Accordingly, based on the facts submitted and representations made, we rule that the \$a distributions from Trust to Great-grandchild 4 and Great-grandchild 5 made in compliance with Settlement Agreement do not result in gifts for federal gift tax purposes by the other beneficiaries of Trust.

Ruling 3

Section 643(a) defines the term "distributable net income" as the taxable income of the estate or trust computed with certain modifications.

Section 643(a)(4) and the regulations thereunder exclude from the computation of distributable net income (with respect to trusts that qualify under subpart B) those items of gross income constituting extraordinary dividends which the fiduciary, acting in good faith, does not pay or credit to any beneficiary by reason of his determination that such dividends are allocable to corpus under the terms of the governing instrument and applicable local law.

Section 643(b) and the regulations thereunder provide that for purposes of subparts A, B, C, and D, the term "income," when not preceded by the words "taxable," "distributable net," "undistributed net," or "gross," means the amount of the income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable local law. Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income.

In this case, Court determined that the governing instrument and State law would characterize the \$f distribution from LLC to Trust as a return of corpus. As such, the \$f distribution from LLC to Trust pursuant to Settlement Agreement meets the definition of an extraordinary dividend under § 643(b) and is not considered income within the meaning of that section. Accordingly, based on the facts submitted and the representations made, we rule that the \$f distribution from LLC to Trust is an extraordinary dividend excluded from the definition of "income" within the meaning of § 643(b).