

## Part I

### Section 664.—Charitable Remainder Trusts

(Also: §§ 507, 1015, 1223, 4941, 4945, 4947)

Rev. Rul. 2008-41

#### ISSUES

Under the facts of this revenue ruling:

(1) Does the pro rata division of a trust that qualifies as a charitable remainder trust (CRT) under § 664(d) of the Internal Revenue Code into two or more separate trusts cause the trust or any of the separate trusts to fail to qualify as a CRT under § 664(d)?

(2) When a trust that qualifies as a CRT under § 664(d) is divided pro rata into two or more separate trusts, is the basis under § 1015 of each separate trust's share of each asset the same share of the basis of that asset in the hands of the trust immediately before the division of the trust, and, under § 1223, does each separate trust's holding

period for an asset transferred to it by the original trust include the holding period of the asset as held by the original trust immediately before the division?

(3) Does the pro rata division of a trust that qualifies as a CRT under § 664(d) into two or more separate trusts terminate under § 507(a)(1) the trust's status as a trust described in, and subject to, the private foundation provisions of § 4947(a)(2), and result in the imposition of an excise tax under § 507(c)?

(4) When a trust that qualifies as a CRT under § 664(d) is divided pro rata into two or more separate trusts, does the division constitute an act of self-dealing under § 4941?

(5) When a trust that qualifies as a CRT under § 664(d) is divided pro rata into two or more separate trusts, does the division constitute a taxable expenditure under § 4945?

## FACTS

*Situation 1.* Trust qualifies as either a charitable remainder annuity trust (CRAT) described in § 664(d)(1) or a charitable remainder unitrust (CRUT) described in § 664(d)(2). Under the terms of Trust, two or more individuals (recipients) are each entitled to an equal share of the annuity or unitrust amount, payable annually, during the recipient's lifetime, and upon the death of one recipient, each surviving recipient becomes entitled for life to an equal share of the deceased recipient's annuity or unitrust amount. Thus, the last surviving recipient becomes entitled to the entire annuity or unitrust amount for his or her life. Upon the death of the last surviving recipient, the assets of Trust are to be distributed to one or more charitable organizations described in § 170(c) (remainder beneficiaries).

Trust has not committed any act (or failure to act) in the past giving rise to liability for tax under chapter 42 (Private Foundations and Certain Other Tax-Exempt Organizations). Moreover, Trust has made no distributions to charitable beneficiaries.

The state court having jurisdiction over Trust has approved a pro rata division of Trust into as many separate and equal trusts as are necessary to provide one such separate trust for each recipient living at the time of the division, with each separate trust being intended to qualify as the same type of CRT (i.e., CRAT, CRUT, net income CRUT with makeup) as Trust. Either the court's order or the trust agreement itself incorporates the provisions described in these facts that will govern the separate trusts.

The separate trusts may have different trustees. To carry out the division of Trust into separate trusts, each asset of Trust is divided equally among and transferred to the separate trusts. For purposes of determining the character of distributions to the recipient of each separate trust, each separate trust upon the division of Trust is deemed to have an equal share of Trust's income in each tier described in § 664(b) and, similarly, on each subsequent consolidation of separate trusts by reason of the death of a recipient, the income in each tier of the consolidated trust is the sum of the income in that tier formerly attributed to the trusts being combined. The recipients pay all the costs associated with the division of Trust into separate trusts, including (i) legal fees relating to the court proceeding, and (ii) the administrative costs of the creation and funding of the separate trusts.

Each of the separate trusts has the same governing provisions as Trust, except that: (i) immediately after the division of Trust, each separate trust has only one recipient, and each recipient is the annuity or unitrust recipient of only one of the separate trusts

(that recipient's separate trust); (ii) each separate trust is administered and invested independently by its trustee(s); (iii) upon the death of the recipient, each asset of that recipient's separate trust is to be divided on a pro rata basis and transferred to the separate trusts of the surviving recipient(s), and the annuity amount payable to the recipient of each such separate CRAT is thereby increased by an equal share of the deceased recipient's annuity amount (the unitrust amount of each separate CRUT is similarly increased as a result of the augmentation of the CRUT's corpus, and each separate CRUT incorporates the requirements of § 1.664-3(b) of the Income Tax Regulations with respect to the subsequent computation of the unitrust amount from that trust); and (iv) upon the death of the last surviving recipient, that recipient's separate trust (being the only separate trust remaining) terminates, and the assets are distributed to the remainder beneficiaries.

The remainder beneficiaries of Trust are the remainder beneficiaries of each of the separate trusts and are entitled to the same (total) remainder interest after the division of Trust as before. In addition, each recipient is entitled to receive from his or her separate trust the same annuity or unitrust amount as the recipient was entitled to receive under the terms of Trust. Because the annual net fair market value of the assets in each of the separate trusts may vary from one another due to differing investment strategies of the separate trusts, in situations where Trust is a CRUT, the amount of the unitrust payments from each separate CRUT may vary over time, both from year to year and among the separate CRUTs. Nevertheless, the unitrust percentage of each separate CRUT remains the same as each recipient's share of the

unitrust percentage under the terms of Trust, and the recipients and the remainder beneficiaries are entitled to the same benefits after the division of Trust as before.

For example, assume Trust is a CRUT. Under the terms of Trust, X, Y, and Z are entitled to share equally the annual payments of a 15 percent unitrust amount (5 percent each) while all three are living, and upon the death of one recipient, the surviving recipients are entitled to the deceased recipient's share. Thus, if X dies first, the surviving recipients (Y and Z) are entitled to share equally in the annual payments of the 15 percent unitrust amount (7.5 percent each) while both are living. Thereafter, if Y predeceases Z, then upon the death of Y, Z is entitled to receive annual payments of the entire 15 percent unitrust amount for life. Upon the division of Trust, three separate trusts are created (one for each of X, Y, and Z) and each of the separate trusts holds one-third of the assets of Trust. X, Y, and Z are each entitled to annual payments of a 15 percent unitrust amount from his or her separate trust (15 percent of one-third of the assets is equivalent to 5 percent of all the assets of Trust). After the division of Trust and upon the death of X, each asset of X's separate trust is divided on a pro rata basis and transferred to Y and Z's separate trusts. Y and Z each remain entitled to annual payments of a 15 percent unitrust amount from his or her respective separate trust, each of which is now funded with the equivalent of one-half the assets of Trust (15 percent of one-half of the assets is equivalent to 7.5 percent of all the assets of Trust). Upon the death of Y, the assets of Y's separate trust are transferred to Z's separate trust, and Z remains entitled to annual payments of a 15 percent unitrust amount from Z's separate trust. These are the same interests to which X, Y, and Z would have been entitled under the terms of Trust if Trust had not been divided into separate trusts.

*Situation 2.* The facts are the same as in *Situation 1* except that Trust has only two recipients who are U.S. citizens married to each other but in the process of obtaining a divorce, and, instead of the provision described in (iii) of *Situation 1*, each separate trust in *Situation 2* has governing provisions providing that upon the death of the recipient, that recipient's separate trust terminates and the assets of that separate trust then are distributed to the remainder beneficiaries. Because the remainder beneficiaries of Trust (and thus of each separate trust) receive a distribution of one-half of the assets of Trust upon the death of the first spouse to die and the remaining half of the assets upon the death of the surviving spouse (rather than a distribution of all of the assets of Trust upon the later death of the surviving recipient), the value of the remainder payable to the remainder beneficiaries as a result of the division of Trust into separate trusts may be larger than the present value of that interest as computed at the creation of Trust; no additional charitable deduction is permitted, however.

Each recipient (spouse) is entitled to receive from his or her separate trust the same share of the annuity or unitrust amount as the recipient was entitled to receive under the terms of Trust. However, each spouse relinquishes all interests in Trust to which he or she would have been entitled by reason of having survived the other (survivorship right).

## LAW AND ANALYSIS

### Issue 1. Qualification of Trusts under § 664(d)

Section 664(d)(1) provides that a CRAT is a trust:

(A) from which a sum certain (which is not less than 5 percent or more than 50 percent of the initial net fair market value of all property placed in trust) is to be paid, not less often than annually, to one or more persons (at least one of which is not an

organization described in § 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals;

(B) from which no amount other than the payments described in § 664(d)(1)(A) and qualified gratuitous transfers described in § 664(d)(1)(C) may be paid to or for the use of any person other than an organization described in § 170(c);

(C) the remainder interest of which (following the termination of the payments described in § 664(d)(1)(A)), is to be transferred to, or for the use of, an organization described in § 170(c) or is to be retained by the trust for such a use or, to the extent the remainder interest is in qualified employer securities (as defined in § 664(g)(4)), all or part of such securities are to be transferred to an employee stock ownership plan (as defined in § 4975(e)(7)) in a qualified gratuitous transfer (as defined in § 664(g)); and

(D) the remainder interest of which has a value (determined under § 7520) that is at least 10 percent of the initial net fair market value of all property placed in trust.

Section 664(d)(2) provides that a CRUT is a trust:

(A) from which a fixed percentage (which is not less than 5 percent nor more than 50 percent) of the net fair market value of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in § 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals;

(B) from which no amount other than the payments described in § 664(d)(2)(A) and qualified gratuitous transfers described in § 664(d)(2)(C) may be paid to or for the use of any person other than an organization described in § 170(c);

(C) the remainder interest of which (following the termination of the payments described in § 664(d)(2)(A)), is to be transferred to, or for the use of, an organization described in § 170(c) or is to be retained by the trust for such a use or, to the extent the remainder interest is in qualified employer securities (as defined in § 664(g)(4)), all or part of such securities are to be transferred to an employee stock ownership plan (as defined in § 4975(e)(7)) in a qualified gratuitous transfer (as defined in § 664(g)); and

(D) the remainder interest of which, with respect to each contribution of property to the trust, has a value (determined under § 7520) that is at least 10 percent of the net fair market value of such property as of the date such property is contributed to the trust.

Section 1.664-1(a)(4) provides, in part, that in order for a trust to be a CRT, it must meet the definition of and function exclusively as a CRT from the creation of the trust.

Section 1.664-2(b) provides that a trust is not a CRAT unless its governing instrument provides that no additional contributions may be made to the CRAT after the initial contribution.

Section 1.664-3(b) provides that a trust is not a CRUT unless its governing instrument either prohibits additional contributions to the trust after the initial contribution or provides that the rules in § 1.664-3(b)(1) and (2) must be satisfied with regard to each additional contribution, if any.

To carry out the division of Trust in *Situation 1* and *Situation 2*, each asset of Trust is divided on a pro rata basis (in these cases, equally) among and distributed to the



separate trusts. Each of the separate trusts has the same governing provisions as Trust, with the exceptions noted above, and the same recipients and remainder beneficiaries, collectively, as Trust. In *Situation 1*, after the division of Trust into separate trusts, the total annuity amount or unitrust percentage to be paid annually by the separate trusts remains the same as under the terms of Trust. Each recipient and remainder beneficiary essentially has the same beneficial interest after the division as before. A transfer of the assets from a deceased recipient's separate trust to the separate trust(s) of the surviving recipient(s) in *Situation 1* is not treated as a transferred remainder interest that would violate § 664(d)(1)(C) or § 664(d)(2)(C), and is not treated as a prohibited additional contribution to a CRAT under § 1.664-2(b). In *Situation 2*, after the division of Trust into separate trusts, the total annuity amount or unitrust percentage to be paid annually remains the same as it was under the terms of Trust, with the exception of the survivorship right to the annuity or unitrust payments the recipients relinquish. Consequently, in *Situation 1* and *Situation 2*, the division of Trust into separate trusts does not cause Trust or any of the separate trusts to fail to qualify as a CRT under § 664(d).

#### Issue 2. Basis and Holding Period of Assets

Section 1015(b) provides that, if property is acquired by a transfer in trust (other than by a transfer in trust by a gift, bequest, or devise) after December 31, 1920, the basis shall be the same as it would be in the hands of the grantor, increased by the amount of gain, or decreased by the amount of loss, recognized by the grantor on such a transfer in trust under the law applicable to the year in which the transfer was made. Section 1.1015-2(a)(1) provides that, if the taxpayer acquired property by such a transfer in

trust, this basis rule applies whether the property is in the hands of the trustee or the beneficiary, and whether the property was acquired before, upon, or after termination of the trust and distribution of the property.

Section 1223(2) provides that, in determining the period for which the taxpayer has held property, however acquired, there shall be included the period during which the property was held by another person if, under chapter 1 (Normal Taxes and Surtaxes), the property has, for purposes of determining gain or loss from a sale or exchange, the same basis, in whole or in part, in the taxpayer's hands as it would have in the hands of the other person.

In *Situation 1* and *Situation 2*, the pro rata division of Trust into separate trusts is not a sale, exchange, or other disposition producing gain or loss. Pursuant to § 1015(b), in *Situation 1* and *Situation 2*, the basis of each separate trust's share of each asset immediately after the division of Trust is the same share of the basis of that asset in the hands of Trust immediately before the division. Furthermore, pursuant to § 1223(2), each separate trust's holding period of each asset transferred to it by Trust includes the holding period of the asset as held by Trust immediately before the division. Similarly, upon the death of a recipient and the consolidation of the assets of the deceased recipient's separate trust into the separate trust(s) of the surviving recipient(s) in *Situation 1*, each separate trust of a surviving recipient receives the same share of each asset of the deceased recipient's separate trust and of the basis of each asset in the hands of the deceased recipient's separate trust immediately before the consolidation, and the holding period of each asset transferred to a separate trust of a surviving

recipient includes the holding period of the asset as held by the deceased recipient's separate trust immediately before the consolidation.

Issue 3. Status as Trust Subject to Private Foundation Rules of § 4947(a)(2) and Imposition of § 507(c) Excise Tax

Section 4947(a)(2) and § 53.4947-1(c) of the Foundation and Similar Excise Taxes Regulations provide that split-interest trusts generally are subject to the provisions of § 507 (among other provisions) in the same manner as if such trusts were private foundations, but, under § 4947(a)(2)(A), not with respect to any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed for those amounts under §§ 170(f)(2)(B), 2055(e)(2)(B), or 2522(e)(2)(B). Both CRATs and CRUTs are split-interest trusts for this purpose and are, thus, subject to the rules of § 507(a).

Section 507(a) provides that, except as provided in § 507(b), a private foundation's tax status shall be terminated only if (1) the organization notifies the Secretary of its intent to terminate its status as a private foundation, or (2) it is involuntarily terminated by the Secretary due to willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to chapter 42 liability. See § 1.507-1(a)(1) and § 1.507-1(b)(1) regarding filing the notice of termination. Upon such a termination, § 507(c) imposes a termination tax that generally equals the lower of the "aggregate tax benefit" (as defined in § 507(d)) resulting from the tax exempt status of the terminating foundation or the fair market value of that foundation's net assets.

Section 507(b)(2) provides that, in the case of the transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger,

redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation is not treated as a newly created organization.

Section 1.507-1(b)(6) generally confirms that, if a private foundation transfers all or part of its assets to one or more other private foundations pursuant to a transfer described in §§ 507(b)(2) and 1.507-3(c), such transferor foundation will not have terminated its private foundation status under § 507(a)(1).

Section 1.507-3(a)(1) and (2) provide, in substance, that in a § 507(b)(2) transfer of assets from one private foundation to one or more other private foundations, no transferee private foundation shall be treated as a newly created organization, but instead shall succeed to the transferor's aggregate tax benefit within the meaning of § 507(d).

Section 1.507-3(c)(1) generally provides that, as used in § 507(b)(2), the term “other adjustment, organization or reorganization” shall include any partial liquidation or any other significant disposition of assets to one or more private foundations.

Section 1.507-3(c)(2)(ii) provides that the term a “significant disposition of assets” includes the transfer of a total of 25 percent or more of the fair market value (as of the beginning of the taxable year, or of the first taxable year in which any of a series of dispositions was made) of the net assets of the foundation to one or more private foundations. Such disposition may be made for a single year or in a series of related dispositions over more than one year.

Section 1.507-4(b) provides that the excise tax on termination of private foundation status under § 507(c) generally does not apply to a transfer of assets pursuant to § 507(b)(2).

In *Situation 1* and *Situation 2*, the separate trusts have the same governing provisions as Trust, with the exceptions noted above, and collectively, the same recipients, remainder beneficiaries, and assets as Trust. In addition, each recipient and remainder beneficiary is entitled to the same benefits both before and after the division of Trust, with the exceptions noted above. Further, in both *Situation 1* and *Situation 2*, Trust transfers all of its assets to the separate trusts pursuant to a transfer described in § 507(b)(2). Thus, in *Situation 1* and *Situation 2*, Trust has not terminated its private foundation status under § 507(a)(1) as a result of the division of Trust (or a subsequent consolidation of the separate trusts arising from the death of a recipient in *Situation 1*), because no notice of termination was filed or was required to be filed. See § 1.507-1(b)(6). Accordingly, the excise tax imposed under § 507(c) does not apply.

Issue 4. Act of Self-Dealing under § 4941

Section 4947(a)(2) and § 53.4947-1(c)(1)(ii) provide that split-interest trusts generally are subject to the provisions of § 4941 (among other provisions) in the same manner as if such trusts were private foundations, but, under § 4947(a)(2)(A), not with respect to any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed for those amounts under §§ 170(f)(2)(B), 2055(e)(2)(B), or 2522(e)(2)(B). Both CRATs and CRUTs are split-interest trusts for this purpose and are, thus, subject to the rules of § 4941.

Section 4941(a)(1) imposes an excise tax on each act of self-dealing between a disqualified person and a private foundation.

Section 4941(d)(1)(A) provides that the term “self-dealing” includes any direct or indirect sale or exchange, or leasing, between a private foundation and a disqualified person.

Section 4941(d)(1)(E) provides that the term “self-dealing” includes any direct or indirect transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation.

Section 4946(a)(1)(A), (B), and (D) defines the term “disqualified person” with respect to a private foundation as including (among others) a substantial contributor to the private foundation, a foundation manager, and a member of the family of a substantial contributor or foundation manager.

Section 4947(a)(2)(A) and § 53.4947-1(c)(2) provide that annuity or unitrust amounts payable to the recipients under the terms of a charitable remainder split-interest trust are not subject to § 4941.

In *Situation 1* and *Situation 2*, the recipients might be disqualified persons with respect to Trust under § 4946. The only interest that the recipients have in Trust is the right to the payment of the annuity or unitrust amount under § 664(d)(1) or (2), respectively. As a result of the division of Trust in *Situation 1* and *Situation 2*, each separate trust holds a pro rata (in these cases, equal) share of each asset of Trust, and each recipient receives his or her annuity or unitrust payment from only one of the separate trusts. The annuity or unitrust payments a recipient receives from his or her separate trust remains equivalent to the recipient’s share of the annuity or unitrust payments under the terms of Trust, with the exception of the survivorship right to the annuity or unitrust payments each recipient relinquishes in *Situation 2*.

Thus, upon the division of Trust in *Situation 1* and *Situation 2*, the recipients are insulated from self-dealing with respect to their annuity or unitrust interests. Because of the pro rata (equal) distributions to the separate trusts, none of the disqualified persons, if any, receive any additional interest in the assets of Trust, and no self-dealing transaction occurs within the meaning of § 4941(d). The remainder interest of Trust remains preserved exclusively for charitable interests, and there is no increase in the annuity or unitrust amount at the expense of the charitable interest. Additionally, the pro rata division of the assets of Trust among the separate trusts in *Situation 1* and *Situation 2* is not a sale or exchange and, therefore, is not a sale or exchange between a private foundation and a disqualified person. All legal and other expenses and costs incident to the division of Trust are paid by the recipients. *Situation 1* and *Situation 2* involve no other transactions with the recipients that affect the principal of Trust; accordingly, no self-dealing transaction occurs by reason of the division of Trust in either *Situation 1* or *Situation 2*, or by reason of a subsequent consolidation of the separate trusts arising from the death of a recipient in *Situation 1*.

Issue 5. Taxable Expenditures under § 4945

Section 4947(a)(2) and § 53.4947-1(c) provide that split-interest trusts generally are subject to the provisions of § 4945 (among other provisions) in the same manner as if such trusts were private foundations, but, under § 4947(a)(2)(A), not with respect to any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed for those amounts under §§ 170(f)(2)(B), 2055(e)(2)(B), or 2522(e)(2)(B). Both CRATs and CRUTs are split-interest trusts for this purpose and are, thus, subject to the rules of § 4945.

Section 4945 imposes an excise tax on each taxable expenditure described in § 4945(d) made by a private foundation.

Section 4945(d)(4) provides that a taxable expenditure includes any amount paid or incurred by a private foundation as a grant to an organization unless the private foundation exercises expenditure responsibility with respect to such grant in accordance with § 4945(h).

Section 53.4945-5(b)(7) confirms that §§ 1.507-3(a)(7), 1.507-3(a)(8)(ii)(f), and 1.507-3(a)(9) govern the extent to which the expenditure responsibility rules contained in § 4945(d)(4) and (h) apply to transfers of assets described in § 507(b)(2).

Section 1.507-3(a)(7) provides, in part, that, except as provided in § 1.507-3(a)(9), if the transferor has disposed of all of its assets, then during any period in which the transferor has no assets, § 4945(d)(4) and (h) shall not apply to the transferee or the transferor with respect to any “expenditure responsibility” grants made by the transferor.

Section 1.507-3(a)(9) provides, in part, that if a private foundation transfers all of its net assets to one or more private foundations which are effectively controlled (within the meaning of § 1.482-1(a)(3)), directly or indirectly, by the same person or persons which effectively controlled the transferor private foundation, then for certain purposes, such a transferee private foundation shall be treated as if it were the transferor.

Rev. Rul. 2002-28, 2002-1 C.B. 941, provides, in part, that, once a private foundation distributes all of its assets to one or more other effectively controlled private foundations under a plan of dissolution, the obligation to exercise expenditure responsibility under § 4945(h) with respect to the transfers made by the transferor foundation passes from that foundation to the transferee foundation(s).



Section 4945(d)(5) provides that a taxable expenditure includes any amount paid or incurred by a private foundation for a non-charitable purpose.

Section 53.4945-6(b)(2) provides that expenditures for unreasonable administrative expenses will ordinarily be taxable expenditures under § 4945(d)(5).

The transfers of Trust's assets to the separate trusts in *Situation 1* and *Situation 2* are not expenditures that require expenditure responsibility by Trust, pursuant either to § 1.507-3(a)(9) (if Trust and the separate trust are controlled by the same person or persons) or § 1.507-3(a)(7) (if Trust and the separate trust are not controlled by the same person or persons). Because Trust made no prior distributions for which expenditure responsibility is required, the separate trusts assume no preexisting expenditure responsibility from Trust under § 1.507-3(a)(9). A similar analysis applies regarding a subsequent consolidation of the separate trusts arising from the death of a recipient in *Situation 1*. Thus, in *Situation 1* and *Situation 2*, Trust is not required to exercise "expenditure responsibility" under § 4945(d) and (h) with respect to the assets transferred to the separate trusts.

## HOLDINGS

Under the facts of this revenue ruling:

(1) In *Situation 1* and *Situation 2*, the pro rata division of a trust that qualifies as a CRT under § 664(d) into two or more separate trusts does not cause the trust or any of the separate trusts to fail to qualify as a CRT under § 664(d).

(2) In *Situation 1* and *Situation 2*, where a trust that qualifies as a CRT under § 664(d) is divided pro rata into two or more separate trusts, the division is not a sale, exchange, or other disposition producing gain or loss, the basis under § 1015 of each

separate trust's share of each asset is the same share of the basis of that asset in the hands of the trust immediately before the division of the trust, and, under § 1223, each separate trust's holding period for an asset transferred to it by the original trust includes the holding period of the asset as held by the original trust immediately before the division.

(3) In *Situation 1* and *Situation 2*, the pro rata division of a trust that qualifies as a CRT under § 664(d) into two or more separate trusts does not terminate under § 507(a)(1) the trust's status as a trust described in, and subject to, the private foundation provisions of § 4947(a)(2), and does not result in the imposition of an excise tax under § 507(c).

(4) In *Situation 1* and *Situation 2*, where a trust that qualifies as a CRT under § 664(d) is divided pro rata into two or more separate trusts, the division does not constitute an act of self-dealing under § 4941.

(5) In *Situation 1* and *Situation 2*, where a trust that qualifies as a CRT under § 664(d) is divided pro rata into two or more separate trusts, the division does not constitute a taxable expenditure under § 4945.

#### DRAFTING INFORMATION

The principal authors of this revenue ruling are Megan A. Stoner of the Office of Associate Chief Counsel (Passthroughs & Special Industries) and Ward L. Thomas of the Office of the Commissioner (Tax Exempt & Government Entities) Exempt Organizations Ruling Division. For further information regarding this revenue ruling, contact Ms. Stoner with respect to issues 1 and 2 at (202) 622-3070 (not a toll-free call)

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