

Internal Revenue Service

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Department of the Treasury

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CC:IT&A:4 -- GENIN-105533-02

Date: September 3, 2002

Dear [REDACTED]

This letter is in response to your inquiry dated January 21, 2002, on behalf of your clients who wish to transfer all of their assets into a revokable trust for estate planning purposes. In your letter, you related that a portion of their assets included several Series EE bonds. You indicated that some of the bonds have matured and were already worth the face value. Your concern was that if the EE bonds were transferred to the revokable trust, the transfer may be a taxable event. Your letter poses two questions:

- (1) If the husband and wife transfer the EE bonds to a revokable trust that is in their name and names them as trustors and trustees during their lifetime, is such a transfer a taxable event?
- (2) If the EE bonds are transferred individually to your clients and a child is named as a joint tenant, is this a taxable event?

Outside the context of a private letter ruling request that complies with the requirements of Rev. Proc. 2002-1, 2002-1 I.R.B. 1, the Internal Revenue Service does not make advance determinations of the tax consequences for a taxpayer of any particular transaction. However, we direct your attention to specific provisions of the Internal Revenue Code, the Income Tax Regulations, and other well-known principles of tax law. From these it may be possible for you to make your own determination regarding the likely tax consequences of a transaction. With this in mind, we refer you to the following items:

Section 454(c) of the Internal Revenue Code provides, in part, that the increase in redemption value in excess of the amount paid for a Series E bond shall be includible in gross income in the taxable year in which the obligation is finally redeemed or in the taxable year of final maturity, whichever is earlier.

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Under § 676, the taxpayer (as grantor or trustor of a trust) is considered the owner of the property in the trust (including the bonds) if the taxpayer or other nonadverse party has the power to revest title to such property in himself.

In Rev. Rul. 70-428, 1970-2, C.B. 5, the taxpayer held Series E bonds in his own right, without a co-owner, used the cash receipts and disbursements method of accounting, and did not elect to report the increments of interests on the bonds currently. The taxpayer requested, through his bank, the reissue of his bonds to add his son's name as co-owner, intending no transfer of possession but only a change of registration to facilitate a transfer of the bonds at his death. Under these circumstances the revenue ruling states that the reissue of bonds in this manner does not result in a taxable event because there is no realization of income at that time with respect to the interest that was earned on the bonds before their reissue.

In addition, with regard to transfers to trusts, Rev. Rul. 58-2, 1958-1 C.B. 236, sets forth a fact pattern that includes the following elements: (1) the taxpayer establishes a trust over which he has power of revocation; (2) the corpus consists of Series E bonds contributed by the taxpayer and held prior by the taxpayer as sole owner; (3) the transfer of the bonds to the trust, concerning which there were some restrictions, was in conformity with the regulations concerning savings bonds; and (4) the interest on the bonds had accumulated in the form of increment in value, none of which was reported in the taxpayer's individual tax return under the option available to owners of such bonds under § 454(a). The revenue ruling holds that, because the taxpayer did not realize the benefit of the interest (increment in value) at the time of the transfer to the trust, the taxpayer was not required to include in his federal income tax return the amount thereof that had accumulated to the date of transfer.

I hope this information is helpful. If you have any questions, please contact  
, at (202) 622-4920.

Sincerely,  
Robert A. Berkovsky  
Branch Chief  
Office of Associate Chief Counsel  
(Income Tax & Accounting)