

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B05
PLR-147932-04
Date: February 3, 2005

Dear

This is in reference to your request for a private letter ruling concerning the federal income tax consequences of your 2001 sale of a remainder interest in a single family residential property.

Section 5.01 of Rev. Proc. 2005-1, 2005-1 I.R.B. 1, 10 provides that, in income and gift tax matters, the Internal Revenue Services generally issues a letter ruling on a proposed transaction or on a completed transaction if the letter ruling request is submitted before the return is filed for the year in which the transaction was completed. The sale described in your letter was reportable on your federal income tax return for 2001. Accordingly, we are unable to issue a ruling because an operating division has examination jurisdiction for your federal income tax return for 2001.

Section 7.07(2)(a) of Rev. Proc. 2005-1, provides, in part, that if the Service declines to issue a letter ruling, the Associate office generally will notify, by memorandum, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return. The Service may also provide its views on the issues presented in the ruling request to the Service official for consideration in any later examination of the taxpayer's return. *Id.* at 26. In accordance with the cited provisions, the operating division that has examination jurisdiction for your tax return will be notified of the circumstances described in your request for a ruling. You must file an amended return for 2001 to report the sale of your interest in the subject property.

Although we are unable to issue a ruling in this case, the following general information and example illustrate the manner in which the tax consequences of the sale of a remainder interest in property are determined.

For purposes of the following example, assume that a man born on July 1, 1935, and his wife acquired a single family home in 1961 at a cost of \$45,000. They each contributed 50 percent of the cost of the property and took title to the property as

tenants by the entirety. The property was not located in a community property state. The man, woman, and their only child, a daughter, occupied the house as their principal residence. The daughter moved out of the house in 1985. The woman (the wife and mother) died in . Between and , the husband and wife invested \$ in improvements to the property. On , the man transferred the property subject to a retained life estate, to his adult daughter. On , in a single transaction, the man and his daughter each sold their respective interests in the property to a single purchaser for total consideration of \$.

At the time of the wife's death, the fair market value of the property was \$. Upon the wife's death, her 50 percent interest in the property passed to her husband by operation of law. Under section 1014(a)(1) of the Internal Revenue Code, the husband received a \$ fair market value basis in the property interest received from his wife. The husband's total basis in the property after his wife's death was \$: the sum of the \$ basis in the property interest received from his wife plus \$ (50 percent of the sum of the \$45,000 original cost of the property and the \$ the husband and wife invested in improvements prior to the time of the wife's death).

Between the time of his wife's death in and , the man invested an additional \$ in improvements to the property. The cost of the improvements increased his basis in the property to \$.

Section 7520 of the Code provides that for purposes of the Internal Revenue Code, the value of any interest for life or a term of years, or any remainder or reversionary interest shall be determined under tables prescribed by the Secretary and by using an interest rate (rounded to the nearest $2/10^{\text{ths}}$ of 1 percent) equal to 120 percent of the Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls. The factors for determining the value of a life estate or remainder interest based on a single life are found in Table S, Single Life Factors Based on Life Table 90 CM, Book Aleph, IRS Publication 1457 (7-1999). The applicable rates for the various months (the rate equal to 120 percent of the Federal mid-term rate in effect for a given month) are published in the Internal Revenue Bulletins and the Cumulative Bulletins.

In the example, the amount of the basis and sales proceeds allocable to the daughter's remainder interest in the property would be determined as follows: The applicable interest rate for July 2003, the month in which the property was sold, was 3 percent. The interest rate was published in Rev. Rul. 2003-71, 2003-2 C.B. 1, 2. Reference to the factors for a person 68 years of age (the father's age when the property was sold) in the Table S table for an interest rate of 3 percent indicates a factor of .65630 for a remainder interest. Multiplication of the \$ basis in the property at the time of the sale by the factor of .65630 indicates that \$ of the basis was allocable to the remainder interest. Multiplication of the \$ sales price of the property by the factor of .65630 indicates that \$ of the sales proceeds was

allocable to the remainder interest. Accordingly, the daughter would be required to recognize a gain of \$ (\$ sales proceeds - \$ basis = \$ gain) on the sale of her remainder interest in the property.

Although the dates, amounts, and other information in the above example differ from your circumstances, the example illustrates the method of determining the gain (loss) from the sale of a remainder interest in property subject to a life estate. The example does not address any gift tax consequences arising from the creation of the remainder interest, its sale, or the disposition of the sales proceeds.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See section 2.04, of Rev. Proc. 2005-1, 2005-1 I.R.B. 1, 7. If you have any additional questions, please contact our office at ; this is not a toll-free call.

We are refunding your user fee since we are unable to rule in the circumstances described in your letter.

Sincerely,-----

John Aramburu-----
Senior Counsel, Branch 5-----
(Income Tax & Accounting)-----

cc: