

Dear _____ :

This letter responds to a letter dated March 28, 2005, submitted on behalf of Trust by its authorized representative, requesting rulings on the creation of separate trusts by A's will.

The information submitted states that A created Trust on D1. Upon A's death on D2, Trust became irrevocable. Trust provides that upon A's death, Trust property passes to A's then living grandchildren in equal shares. Trust authorizes its trustees to administer Trust property in a separate trust for any beneficiary who is less than thirty years of age. A's will devised the residue of A's estate to Trust. At A's death, A had three grandchildren, B, C, and D. B, C, and D are each less than thirty years of age. At the time of A's death, the trustees of Trust did not create separate trusts for B, C, and D. After A's death, A's son adopted E and A's daughter gave birth to F. E and F were not living upon the death of A on D2.

Trust provides that when a beneficiary reaches the age of thirty, the trustee shall distribute the then remaining principal and undistributed income of the beneficiary's share of Trust to the beneficiary. If such individual dies before reaching age thirty, upon the death of the beneficiary, the trustee shall distribute the then remaining principal and undistributed income of the beneficiary's share of Trust to the estate of the beneficiary.

Since the creation of Trust, the trustees of Trust held Trust as a single fund. Due to a question as to whether Trust created shares for E and F, Trust requested an order from Court clarifying whether E and F are the beneficiaries of Trust and whether Trust created separate trusts for each beneficiary. On D3, Court of State ordered that as of the date of death of A on D2, Trust became irrevocable and created three separate equal trusts and not one trust for B, C, and D. Additionally, Court ordered that B, C, and D are the equal beneficiaries of Trust and not E and F.

State's appellate courts have held that the undivided interest in larger corpus can constitute the res of a separate trust where the trustees have the legal capacity to manage the shares as separate trusts.

Therefore, we rule that pursuant to the terms of Trust and Court of State's order, Trust created three separate trusts on D2. Accordingly, Trustees will amend all of the relevant returns consistent with terms of Trust, Court of State's order, and this ruling.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to Trust's authorized representative.

Sincerely,

Beverly Katz
Acting Chief, Branch 2
Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes