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Internal Revenue Service

Department of the Treasury
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Third Party Communication: None
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:FIP:B04
PLR-107409-06

Date:
May 30, 2006

Legend:

Date A =

Date B =

Taxpayer =

W =

Trust =

Dear

This ruling responds to a letter of Date A, and additional submissions, submitted on behalf of Taxpayer requesting a ruling concerning the income tax consequences of the proposed transfer of a life insurance policy from Taxpayer to Trust under section 101(a) of the Internal Revenue Code.

Facts

Taxpayer and W are married to each other. Taxpayer, as Grantor, and W, as trustee, executed an Agreement of Trust dated Date B (Trust Agreement), creating Trust, for the benefit of the issue of the marriage of Taxpayer and W. The trustee has the absolute discretion to distribute the income and principal of Trust to and among the Grantor's issue. The Trust Agreement provides that the Trust is irrevocable. Taxpayer represents that Trust is a grantor trust for federal income tax purposes.

Taxpayer owns a variable universal life insurance policy (Policy). Taxpayer is the original purchaser of the Policy and has paid all Policy premiums. Taxpayer proposes to transfer the Policy to Trust for valuable consideration.

Taxpayer requests a ruling that the purchase of the Policy from Taxpayer by the Trust will not constitute a transfer for a valuable consideration within the meaning of section 101(a)(2).

Law and Analysis

Section 101(a)(1) of the Code provides that, except as otherwise provided in sections 101(a)(2), 101(d), and 101(f), gross income does not include amounts received under a life insurance contract if such amounts are paid by reason of the death of the insured.

Section 101(a)(2) provides, generally, that if a life insurance contract, or any interest therein, is transferred for a valuable consideration, the exclusion from gross income provided by section 101(a)(1) is limited to an amount equal to the sum of the actual value of such consideration and the premiums and other amounts subsequently paid by the transferee.

The term "transfer for a valuable consideration" is defined for purposes of section 101(a)(2) in section 1.101-1(b)(4) of the Income Tax Regulations as any absolute transfer for value of a right to receive all or a part of the proceeds of a life insurance policy.

Rev. Rul. 85-13, 1985-1 C.B. 184, provides that, if a grantor is treated as the owner of an entire trust, the grantor is considered to be the owner of the trust's assets for federal income tax purposes. Under Rev. Rul. 85-13, a transaction cannot be recognized as a sale or exchange for Federal income tax purposes if the same person is treated as owning the purported consideration both before and after the transaction.

In the present case, Taxpayer has represented that Trust is a grantor trust of Taxpayer. Thus, Taxpayer is treated for federal income tax purposes as the owner of all of the assets of the Trust. Therefore, the proposed transfer of the Policy by Taxpayer to Trust, even though for a valuable consideration, will be disregarded for federal income purposes, and will not affect the application of section 101(a)(1) to amounts the beneficiaries of the Policy will receive upon the death of Taxpayer.

Conclusion

Based solely on the information submitted and the representations made, we conclude that the transfer of the Policy by Taxpayer to Trust for a valuable consideration will be disregarded for federal income tax purposes, and thus will not constitute a transfer for a valuable consideration within the meaning of section 101(a)(2).

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your first and second authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

/S/

Mark Smith
Chief, Branch 4
Office of Associate Chief Counsel
(Financial Institutions & Products)