

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-150188-07
Date:
March 27, 2008

Legend:

Estate =

Decedent =

Trust =

Date =

Charity #1 =

Charity #2 =

Charity #3 =

Charity #4 =

Dear :

This letter responds to the letter dated November 5, 2007, submitted on behalf of Estate and Trust by their authorized representative, requesting a ruling under § 691 of the Internal Revenue Code.

Facts

Decedent, who died on Date, was the grantor during life of Trust. Decedent's will provides that Decedent's residuary probate property should be added to Trust. Trust provides that upon Decedent's death, certain distributions should be made from Trust's assets to specific legatees. Trust also provides that after the specific distributions are made, the residuary of the trust assets should be distributed equally to Charity #1, Charity #2, Charity #3, and Charity #4. The terms of Trust provide that the trustees are authorized to distribute income and principal in cash or in kind, or partly in each, to allocate or distribute undivided interests or different assets or disproportionate interests in assets.

Decedent was the owner of assets including an individual retirement account (IRA). The named beneficiary of the IRA did not exist at the time of Decedent's death and, therefore, Estate was designated, by default, as the beneficiary of the IRA. The trustees of Trust and Personal Representative of Estate propose to fund the residuary bequests by assigning the IRA to Charity #1, Charity #2, Charity #3, and Charity #4 in satisfaction of their residuary shares of Trust. Estate and Trust represent that Trust has sufficient assets to satisfy the specific legatees without utilizing the IRA proceeds.

Law and Analysis

Section 691(a)(1) provides that the amount of all items of gross income in respect of a decedent (IRD) which are not properly includible in respect of the taxable period in which falls the date of the decedent's death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income, for the taxable year when received, of: (A) the estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent; (B) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or (C) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

Section 691(a)(2) provides that if a right, described in § 691(a)(1), to receive an amount is transferred by the estate of the decedent or a person who received such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For purposes of

§ 691(a)(2), the term "transfer" includes sale, exchange, or other disposition, or the satisfaction of an installment obligation at other than face value, but does not include transmission at death to the estate of the decedent or a transfer to a person pursuant to the right of such person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

Section 1.691(a)-4(b) of the Income Tax Regulations provides that if the estate of a decedent or any person transmits the right to IRD to another who would be required by § 691(a)(1) to include such income when received in his gross income, only the transferee will include such income when received in his gross income. In this situation, a transfer within the meaning of § 691(a)(2) has not occurred.

Section 1.691(a)-4(b)(2) provides that if a right to IRD is transferred by an estate to a specific or residuary legatee, only the specific or residuary legatee must include such income in gross income when received.

Section 1.691(a)-4(b)(3) provides that if a trust to which is bequeathed a right of a decedent to certain payments of income terminates and transfers the right to a beneficiary, only the beneficiary must include such income in gross income when received. If the transferee described in § 1.691(a)-4(b)(2) or (3) transfers his right to receive the amounts in the manner described in § 1.691(a)-4(a), the principles contained in § 1.691(a)-4(a) are applied to such transfer. On the other hand, if the transferee transmits his right in the manner described in § 1.691(a)-4(b), the principles of § 1.691(a)-4(b) are again applied to such transfer.

Rev. Rul. 92-47, 1992-1 C.B. 198, holds that a distribution to the beneficiary of a decedent's IRA that equals the amount of the balance in the IRA at the decedent's death, less any nondeductible contributions, is IRD under § 691(a)(1) that is includable in the gross income of the beneficiary for the tax year the distribution is received.

Conclusion

Based solely on the facts and representations submitted, we conclude that the assignment of the IRA to Charity #1, Charity #2, Charity #3, and Charity #4 in satisfaction of their share of the residue of Estate and Trust will not be a transfer within the meaning of § 691(a)(2). Only Charity #1, Charity #2, Charity #3, and Charity #4 will include the amounts of IRD of the IRA in their gross income when the distribution or distributions from the IRA is received by Charity #1, Charity #2, Charity #3, and Charity #4.

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.

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

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.

The rulings contained in this letter are based upon information and representations submitted by the 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.

Sincerely,

/s/

James A. Quinn
Senior Counsel, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter
Copy for § 6110 purposes