



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

I am replying to your letter dated March 31, 2020, about the application of Federal tax law to determine the basis of a fee simple allotment that was received as a trust allotment by gift from the original Indian allottee.

This letter describes well-established interpretations and principles of tax law without applying them to a specific set of facts. This letter is advisory only and has no binding effect with the Internal Revenue Service. This letter only provides general guidance for determining how to comply with applicable federal tax law.

In cases where an individual receives a gift of a trust allotment established by the General Allotment Act, the basis in a fee simple allotment is determined under Revenue Ruling 62-48, 1962 C.B. 131, which modifies Revenue Ruling 58-341, 1958-2 C.B. 400. Under Revenue Ruling 62-48, "the basis for determining an Indian allottee's gain from the sale or exchange of his fee simple allotment, where the land had previously been held in trust for him by the United States under section 5 of the General Allotment Act of 1887, as amended, is its fair market value as of the date he received his fee simple patent." The basis determined under Revenue Ruling 58-341 would only be utilized if the basis determined under Revenue Ruling 62-48 were less than the basis determined under Revenue Ruling 58-341 or if you had obtained the trust allotment by arms-length purchase.

For transfers of gift not arising out of the General Allotment Act or similar provisions, the basis of the gift is generally determined by Section § 1015(a) of the Code. Section 1015(a) of the Code provides that if the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period before the date of the gift as provided in section 1016) is greater than the

fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value.

This letter has called your attention to certain general principles under the Code. It is intended for informational purposes only and does not constitute a ruling. See section 2.04 of Rev. Proc. 2020-1, 2020-1 IRB 1, 9. I hope this information is helpful. If you have any further questions, please contact _____ or me at _____ for assistance.

Sincerely,

Angella L. Warren
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)