

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Date of Communication: Not Applicable

Person To Contact: \_\_\_\_\_, ID No. \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:TEGE:EOEG:EO2  
PLR-120750-16

Date:  
December 20, 2016

Legend

Trust =  
Grantor =  
Date 1 =  
Charitable =  
Beneficiary

Dear \_\_\_\_\_ :

This letter is in response to the ruling request from your authorized representative dated June 23, 2016. That request, and subsequent correspondence, seeks a ruling concerning the applicability of section 4947(a)(2) of the Internal Revenue Code (Code) to the Trust.

Facts

Grantor executed the Trust on Date 1 as a charitable remainder unitrust. The Trust is not exempt from federal income tax under section 501(a) of the Code. The non-charitable unitrust recipient is Grantor. Upon Grantor's death, another individual is the non-charitable unitrust recipient. The unitrust payments are to continue for a period of 20 years or the non-charitable beneficiaries' lifetimes, whichever is longer. The remainder is to be distributed to Charitable Beneficiary, an organization exempt from federal income tax under section 501(c)(3) of the Code at the end of the unitrust term. Grantor has not claimed a deduction under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 of the Code with respect to the Trust, for any tax year, since its inception.

### Rulings Requested:

The Trust requests a ruling that section 4947(a)(2) of the Code is not applicable to the Trust.

### Law

Section 4947(a)(2) of the Code provides that in the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, section 507 (relating to termination of private foundation status), section 508(e) (relating to governing instruments) to the extent applicable to a trust described in this paragraph, section 4941 (relating to taxes on self-dealing), section 4943 (relating to taxes on excess business holdings) except as provided in subsection (b)(3), section 4944 (relating to investments which jeopardize charitable purpose) except as provided in subsection (b)(3), and section 4945 (relating to taxes on taxable expenditures) shall apply as if such trust were a private foundation.

Section 53.4947-1(a) of the Foundation Excise Tax Regulations provides that section 4947 of the Code subjects trusts which are not exempt from taxation under section 501(a), all or part of the unexpired interest in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which have amounts in trust for which a deduction was allowed under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 of the Code to the same requirements and restrictions as are imposed on private foundations. The basic purpose of section 4947 of the Code is to prevent these trusts from being used to avoid the requirements and restrictions applicable to private foundations. For purposes of this section, a trust shall be presumed (in the absence of proof to the contrary) to have amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 of the Code if a deduction would have been allowable under one of these sections.

### Analysis

The Trust is not exempt from taxation under section 501(a). Because the remainder will be distributed to Charitable Beneficiary, part of the Trust's unexpired interest is devoted to one or more of the purposes described in section 170(c)(2)(B). Because no deduction has ever been taken (allowed) under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, the Trust is not subject to section 4947(a)(2) of the Code, even though a deduction under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522 was allowable.

For future tax years, the burden will be on the taxpayer to keep the records to show, through the life of the unitrust, that no deduction is ever taken. Without this proof, that no deduction has ever been taken, section 53.4947-1(a) of the regulations would cause section 4947(a)(2) of the Code to be applied.

#### Conclusion

Based on the foregoing, we rule that the Trust is not subject to section 4947(a)(2) of the Code.

This ruling is based on the facts as they were presented in the ruling request and on the understanding that there will be no material changes to those facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections expressly described herein.

The ruling contained in this letter is 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 ruling request, that material is subject to verification during an 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 will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, Notice of Intention to Disclose. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

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. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

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

If you have any questions about this ruling, please contact the person whose name and phone number are shown in the heading of this letter.

Sincerely,

Taina Edlund  
Senior Technician Reviewer  
(Tax Exempt & Government Entities)

cc: