



This letter responds to a letter dated August 22, 2018, submitted by the authorized representative of Trust, requesting a ruling on the federal income tax consequences of the termination of Trust.

On Date 1, X created Trust, a charitable lead annuity trust, to provide annual annuity payments to Foundation, a State non-profit corporation which is a charitable foundation described in § 501(c)(3) and § 509(a). At the end of n years, the property of Trust would revert to X or its assigns. On Date 1, X assigned its interest to A, an individual. On Date 2, before the n years had passed, A died. Pursuant to A's last will, A's estate transferred the interest in Trust to Foundation.

Under the law of State, at the time Foundation acquired both the annuity interest and the remainder interest, the annuity interest merged into the remainder interest.

Under the law of State, despite the merger of the Foundation's interests, Trust does not automatically terminate if there is a trustee who is not the beneficiary. Under Statute, a court may terminate a trust, if because of circumstances not anticipated by the settlor, termination will further the purposes of the trust. Consistent with Statute, Trust proposes to seek a State court order to terminate the interests of the trustees and to transfer all of Trust's property, after the payment of all obligations, to Foundation.

Section 1.661(a)-2(f)(1) of the Income Tax Regulations provides that if property is paid, credited, or required to be distributed in kind by a trust or estate, no gain or loss is realized by the trust or estate (or the other beneficiaries) by reason of the distribution, unless the distribution is in satisfaction of a right to receive a distribution in a specific dollar amount or in specific property other than that distributed.

Rev. Rul. 83-75, 1983-1 C.B. 114, holds that the distribution by a trust of appreciated securities in satisfaction of its obligation to pay a fixed annuity to a charitable organization results in a taxable gain to the trust. Rev. Rul. 83-75 cites § 1.661(a)-2(f)(1) and Kenan v. Commissioner, 114 F.2d 217 (2d Cir. 1940) in determining the proper treatment of an in-kind distribution of property.

In Kenan v. Commissioner, the trustees of a trust were directed to pay a beneficiary \$5 million when the beneficiary reached age 40. At the directed time, the trustee paid the beneficiary partly in cash and partly in appreciated securities. The court held that the beneficiary had a general claim against the trust corpus, and the satisfaction of this general claim for an ascertainable value by a transfer of specific assets was an exchange that caused the trust to realize gain.

Based solely on the facts and representations submitted, we conclude that the distribution of Trust's assets to Foundation as a result of the State court order is not a distribution in satisfaction of a right to receive a distribution of a specific dollar amount or in specific property other than that distributed, nor is it a distribution in satisfaction of a

general claim for an ascertainable value, and therefore no gain or loss will be recognized by Trust as a result of such distribution.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the transactions described above.

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.

Pursuant to a power of attorney on file with this office, copies of this letter are being forwarded to Y and to Y's authorized representative.

Sincerely,

*Faith P. Colson*

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Office of the Associate Chief Counsel  
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Enclosures (2)  
Copy of this letter  
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