

Internal Revenue Service

Number: **202448002**

Release Date: 11/29/2024

Index Number: 664.00-00, 664.03-00,
664.03-02

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-104141-24
Date:
August 30, 2024

LEGEND

Trust =

A =

B =

Trustees =

Date 1 =

Date 2 =

Dear _____ :

This letter responds to a letter dated February 21, 2024, and subsequent correspondence, submitted on behalf of Trust by the authorized representative, requesting a ruling that a proposed modification of Trust will not disqualify Trust as a charitable remainder unitrust under § 664(d)(2) of the Internal Revenue Code and the applicable regulations.

FACTS

The information submitted states that on Date 1, A and B created Trust with the intention that Trust qualify as a fixed percentage charitable remainder unitrust under § 664(d)(2). Trust's governing instrument requires Trustees of Trust to pay to A and B each year during their lifetimes a unitrust amount equal to five percent of the net fair market value of Trust's assets, valued as of the first day of each taxable year of the trust (unitrust amount). Upon the death of the first of A or B, Trustees are required to pay the unitrust amount to the surviving beneficiary for their lifetime. B died on Date 2 and A currently receives the entire unitrust amount. Upon the death of A, Trust shall terminate, and the Trustees shall distribute the trust property to one or more charitable organizations described in §§ 170(c), 2055(a), and 2522(a).

Trustees, with A's consent, propose to reform the terms of the governing instrument to add that the Trustees may distribute currently and/or upon the death of A all or a portion of the trust assets to permissible remainder beneficiaries. If an organization is not a permissible remainder beneficiary, the distribution to that organization shall lapse and the assets to be distributed to it shall remain instead in the Trust. In the case of distribution of only a portion of the trust assets in kind, the adjusted basis of the property distributed must be fairly representative of the adjusted basis of the property available for payment on the date of payment. After any distribution to a permissible remainder beneficiary during the lifetime of A, the sum of the unitrust amount plus any deficiency payable shall thereafter be calculated based on the remaining net fair market value of the trust assets on the first day of the Trust's succeeding taxable year.

LAW AND ANALYSIS

Section 664(d)(2) provides that a charitable remainder unitrust is a trust (A) from which a fixed percentage (which is not less than five percent) of the net fair market of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in § 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals, (B) from which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in § 170(c), and (C) following the termination of the payments

described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in § 170(c) or is to be retained by the trust for such use.

Section 1.664-1(a)(1)(iii)(a) of the Income Tax Regulations provides that the term “charitable remainder trust” means a trust with respect to which a deduction is allowable under §§ 170, 2055, 2106, or 2522 and which meets the description of a charitable remainder annuity trust (as described in § 1.664-2) or a charitable remainder unitrust (as described in § 1.664-3).

Section 1.664-3(a)(3)(ii) provides that a trust is not a charitable remainder unitrust if any person has the power to alter the amount paid to any named person other than an organization described in § 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E, part 1, subchapter J, chapter 1, subtitle A of the Code were applicable to such trust.

Section 1.664-3(a)(4) provides that no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in § 170(c). The governing instrument may provide that any amount other than the unitrust amount shall be paid (or may be paid in the discretion of the trustee) to an organization described in § 170(c) provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or upon the death of one or more recipients, to an organization described in § 170(c).

CONCLUSION

Based solely on the information submitted, we conclude that the proposed modification of Trust discussed above will not disqualify Trust as a charitable remainder unitrust under § 664(d)(2).

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code, including whether Trust was or is a charitable remainder unitrust under § 664(d)(2) of the Code.

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.

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

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to Trust's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Richard T. Probst
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure:

Copy of this letter for § 6110 purposes

cc: