

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:B09-PLR-131642-02
Date:
February 14, 2003

Re:

LEGEND:

- Taxpayer =
- Date 1 =
- Trust =
- State =
- Family =
- Church =
- County =
- High School =
- College =

Dear :

This is in response to your letter dated May 30, 2002, on behalf of Taxpayer, and subsequent correspondence, requesting a ruling under § 2055 of the Internal Revenue Code.

The facts and representations submitted are summarized as follows: On Date 1, Taxpayer executed a will and Trust, a revocable trust.

Article I of Taxpayer's will directs Taxpayer's executor to pay out of the residuary estate, as a cost of the administration of Taxpayer's estate, all expenses of Taxpayer's last illness and funeral, all debts that are legally enforceable against Taxpayer's estate, and all estate, inheritance and other similar taxes that shall become payable by reason of Taxpayer's death. After providing for various specific bequests, Article IV of Taxpayer's will provides that all of the rest, residue, and remainder of Taxpayer's estate shall pass to the trustee of Trust to be distributed in accordance with the terms of Trust.

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The preamble of Trust provides that Taxpayer intends Trust to be tax-exempt under § 501(c)(3) of the Internal Revenue Code. Article I, paragraph B of Trust provides that the trust is to be organized and operated in perpetuity exclusively for charitable purposes. Paragraph B further provides that the term “charitable purposes” includes charitable, religious, scientific, educational, or literary purposes described in § 501(c)(3) that also constitute charitable purposes under the laws of State for purposes of the charitable exception to the rule against perpetuities.

Article I, paragraph C of Trust, as amended, provides Taxpayer’s special charitable objectives. Specifically, Taxpayer indicates that the trustee is to use the income and principal of the trust for the following purposes:

(1) to provide an annual one-year full or partial college scholarship for a deserving graduating senior of High School the recipient of which is to be selected by the scholarship and awards committee of High School on the basis of need and academic merit and must have been admitted to an accredited four year college;

(2) to provide funds for bona fide organizations whose primary goal is to: (a) promote historic preservation in State, (b) provide funds for the preservation and maintenance of Church, (c) promote the preservation of eighteenth and nineteenth century buildings, furnishings, gardens, and grounds, and (d) preserve open space; and

(3) to provide funds to College for educational purposes and provide funds to other institutions of higher education for educational purposes.

Article II of Trust provides for the administration of Trust. Article II, part (1) of Trust provides that the trustee may accept assets from any source including testamentary transfers. The trustee shall not accept assets if the contribution is conditioned or limited so as to require the disposition of the income or principal for other than charitable purposes.

Article II, part (2) of Trust provides that the trustee shall use and apply all or any part of the income and principal of the trust for the purposes described above by making qualifying distributions only to charitable organizations described in §§170(c)(2)(B), 501(c)(3), and 2055(a).

Article II, part (3) of Trust provides that no part of the net earnings of the trust shall inure to the benefit of or be distributable to any private individual (except that reasonable compensation may be paid for services rendered and payments may be made to further the purposes of the trust). No substantial part of the activities of the trust shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the trust shall not participate in or intervene in any political campaign (including the publication or distribution of statements) on behalf of or in the opposition to any candidate for public office.

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Article II, part (4) of Trust provides that the trust shall not conduct or carry on any activities not permitted to be conducted or carried on by an entity exempt from taxation under § 501(c)(3) or by an entity to which contributions are deductible under § 170(c)(2)(B).

Article II, part (6) of Trust provides that in the event of the termination or dissolution of the trust, by court order or otherwise, and after all liabilities and obligations of the trust have been paid, satisfied, and discharged or adequately provided for, the trustee shall distribute all remaining assets to one or more charitable organizations selected by the trustee and described in §§ 170(c)(2)(B), 501(c)(3), 501(a)(1), (2), or (3), 2055(a), and 2522(a).

Article III of Trust contains trustee provisions. Article III, paragraph A provides, in part, that because the trust is intended to be a tax-exempt private foundation, the trustee shall not exercise any power that would prohibit or restrict such treatment.

Taxpayer has requested a ruling that the bequest to Trust, as amended, will satisfy the requirements of § 2055(a) and that the value of any assets bequeathed to the trustee of Trust will qualify for the estate tax charitable deduction under § 2055.

Section 2001(a) provides that a tax is imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

Section 2055(a)(3) provides, generally, that for purposes of the tax imposed by § 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests, legacies, devises, or transfers to a trustee or trustees, but only if such contributions or gifts are to be used by such trustee or trustees exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, such trust would not be disqualified for tax exemption under § 501(c)(3) by reason of attempting to influence legislation, and such trustee or trustees does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 20.2055-1(a)(3) of the Estate Tax Regulations provides, generally, that a deduction is allowed under § 2055(a) from the gross estate of a decedent who was a citizen or resident of the United States at the time of his death for the value of property included in the decedent's gross estate and transferred by the decedent during his lifetime or by will to a trustee or trustees, if the transferred property is to be used exclusively for religious, charitable, scientific, literary, or educational purposes (or for the prevention of cruelty to children or animals), if no substantial part of the activities of such transferee is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of transfers made after December 31, 1969, such transferee does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

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Section 501(c)(3) exempts from federal income tax corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Based on the facts submitted and the representations made, we conclude that Trust, as amended, satisfies the requirements of § 2055(a) and, therefore, the value of any assets bequeathed to Trust will qualify for the estate tax charitable deduction under § 2055(a).

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.

Except as specifically ruled herein, we express or imply no opinion on the federal tax consequences of the transaction under the cited provisions or under any other provisions of the Code.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to Taxpayer.

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,
James F. Hogan
Senior Technician Reviewer, Branch 9
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures

Copy for section 6110 purposes
Copy of this letter