Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
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Refer Reply To:
CC:FIP:B04
PLR-142537-05
Date:
November 09, 2005

Legend

Taxpayer =

Trust 1 =

Trust 2 =

Taxpayer's Spouse =

Policy A =

Policy B =

Policy C =

Policy D =

Date =

Dear :

This is in response to a request for ruling letters dated July 26, 2005. The request concerns the proposed transfer of four life insurance policies.

FACTS

Trust 1 was created by Taxpayer on Date primarily for the benefit of certain children of Taxpayer and Taxpayer's Spouse. Trust 1 owns Policy A on the life of Taxpayer and Policy B on the life of Taxpayer and Taxpayer's Spouse, now deceased.

Trust 2 was created by Taxpayer on Date primarily for the benefit of certain grandchildren of Taxpayer and Taxpayer's Spouse. Trust 2 owns Policy C on the life of Taxpayer and Policy D on the life of Taxpayer and Taxpayer's Spouse.

The trustee of Trust 1 proposes to transfer Policy A and Policy B to the trustee of Trust 2 in exchange for Policy C and Policy D. The policies to be exchanged will be valued using their interpolated terminal reserve value (including any unused premiums) as set forth in section 25.2512-6(a) of the Income Tax Regulations. The trustees anticipate that the combined interpolated terminal reserve values of Policy A and Policy B will be greater than the combined interpolated terminal reserve values of Policy C and Policy D. Therefore, the trustee of Trust 2 will either transfer additional assets to the trustee of Trust 1 in connection with the exchange of the insurance polices or give the trustee of Trust 1 a promissory note bearing interest at the applicable Federal rate equal to any deficiency.

Taxpayer is a calendar year taxpayer. Taxpayer's overall method of accounting is the cash method. Taxpayer represents that Trust 1 and Trust 2 are grantor trusts in their entirety under section 671 of the Internal Revenue Code, with Taxpayer being the grantor of both trusts.

RULINGS REQUESTED

1. The transfer of Policy A and Policy B from the trustee of Trust 1 to the trustee of Trust 2 in exchange for the transfer of Policy C, Policy D and other consideration will be disregarded for Federal income tax purposes, and thus will not result in the recognition of any gain or loss under section 1001 of the Code.

2. The "transfer-for-value" rule of section 101(a)(2) will not apply to diminish the exclusion from gross income under section 101(a)(1) for amounts received by the beneficiaries of Policy A, Policy B, Policy C and Policy D.

LAW AND ANALYSIS

1. Section 1001(a) provides that gain from the sale or other disposition of property is the excess of the amount realized therefrom over the adjusted basis provided in section 1011 for determining gain, and the loss is the excess of the adjusted basis provided in section 1011 over the amount realized. Section 1001(c) provides that, except as

otherwise provided in Subtitle A, the entire amount of gain or loss determined under section 1001 on the sale or exchange of property shall be recognized.

A “grantor trust” is generally disregarded for Federal income tax purposes. Rev. Rul. 85-13, 1985-1 C.B. 184, provides that, if a grantor is treated as the owner of an entire trust, the grantor is considered to be the owner of the trust’s assets for Federal income tax purposes. Under Rev. Rul. 85-13, a transaction cannot be recognized as a sale or exchange for Federal income tax purposes if the same person is treated as owning the purported consideration both before and after the transaction. The transfer of Policy A and Policy B from the trustee of Trust 1 to the trustee of Trust 2 in exchange for Policy C, Policy D, and other consideration will thus be disregarded for Federal income tax purposes and will not result in the recognition of any gain or loss under section 1001 of the Code.

2. Section 101(a)(1) of the Code provides that, except as otherwise provided in section 101(a)(2), 101(d), and 101(f), gross income does not include amounts received under a life insurance contract if such amounts are paid by reason of the death of the insured.

Section 101(a)(2) provides, generally, that if a life insurance contract, or any interest therein, is transferred for a valuable consideration, the exclusion from gross income provided by section 101(a)(1) is limited to an amount equal to the sum of the actual value of such consideration and the premiums and other amounts subsequently paid by the transferee.

The term "transfer for a valuable consideration" is defined for purposes of section 101(a)(2) in section 1.101-1(b)(4) of the Income Tax Regulations as any absolute transfer for value of a right to receive all or a part of the proceeds of a life insurance policy.

As concluded above with respect to Ruling Request 1, the proposed transfer of Policy A and Policy B from Trust 1 to Trust 2 in exchange for Policy C, Policy D, and other assets, is disregarded for Federal income tax purposes. Therefore, there is not a “transfer for a valuable consideration” within the meaning of section 101(a)(2) of the Code and section 1.101-1(b)(4) of the Regulations. Accordingly, the "transfer-for-value" rule of section 101(a)(2) will not apply to diminish the exclusion from gross income under section 101(a)(1) for amounts received by the beneficiaries of Policy A, Policy B, Policy C and Policy D.

CONCLUSIONS

Based solely on the information submitted and the representations made, we conclude:

1. The transfer of Policy A and Policy B from the trustee of Trust 1 to the trustee of Trust 2 in exchange for the transfer of Policy C, Policy D and other consideration will be

disregarded for Federal income tax purposes, and thus will not result in the recognition of any gain or loss under section 1001 of the Code.

2. The "transfer-for-value" rule of section 101(a)(2) will not apply to diminish the exclusion from gross income under section 101(a)(1) for amounts received by the beneficiaries of Policy A, Policy B, Policy C and Policy D.

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.

No opinion is expressed or implied concerning any matter of State law.

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.

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

A copy of this letter must be attached to any income tax return to which it is relevant.

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.

Sincerely,

/S/

Mark S. Smith
Chief, Branch 4
Office of Associate Chief Counsel
(Financial Institutions and Products)