

Internal Revenue Service

Department of the Treasury

Number: **200247006**

Washington, DC 20224

Release Date: 11/22/2002

Index Number: 0101.01-02

Person to Contact:

Telephone Number:

Refer Reply To:

CC:FIP:4-PLR-134298-02

Date:

AUGUST 09, 2002

Date A

H

W

H1 Trust

H2 Trust

HW1 Trust

HW2 Trust

Dear :

This is in reply to the Date A letter, filed by representatives for H, W, and the H1, H2, HW1, and HW2 trusts (collectively referred to as Taxpayers). The letter requests

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that we rule with respect to a proposed transfer of life insurance policies on the life of H or on the joint lives of H and W, under section 101 of the Internal Revenue Code.

FACTS

H and W are married to each other. Taxpayers have represented that H1 Trust and H2 Trust are both grantor trusts of H and that HW1 Trust and HW2 Trust are both grantor trusts of H and W. Taxpayers are all calendar year taxpayers. H1 Trust presently holds life insurance policies insuring the life of H while HW1 Trust holds life insurance policies insuring the joint lives of H and W.

Taxpayers propose, for valuable consideration, to transfer life insurance policies on the life of H alone from the trustees of the H1 Trust to the trustees of the H2 Trust, and to transfer life insurance policies on the joint lives of H and W from the trustees of the HW1 Trust to the trustees of the HW2 Trust. Accordingly, the transfer of the policies insuring the life of H alone will be from one of H's grantor trusts to another of H's grantor trusts and the transfer of the policies insuring the joint lives of H and W will be from one of H and W's grantor trusts to another of H and W's grantor trusts.

APPLICABLE LAW

Rev. Rul. 85-13, 1985-1 C.B. 184, concludes that if a grantor is treated as the owner of the entire trust, the grantor is considered to be the owner of the trust assets for federal income tax purposes.

Section 1041(a)(1) of the Code provides that no gain or loss shall be recognized on a transfer of property from an individual to a spouse.

Section 101(a)(1) of the Code provides that, except as otherwise provided in sections 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 the 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 regulations as any absolute transfer for value of a right to receive all or a part of the proceeds of a life insurance policy.

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ANALYSIS

Taxpayers have represented that H1 Trust and H2 Trust are grantor trusts of H and that HW1 Trust and HW2 Trust are grantor trusts of H and W. Thus, H is treated for federal income tax purposes as the owner of all of the assets of both trusts H1 and H2. Further, H and W are treated for federal tax purposes as the owners of all of the assets of both trusts HW1 and HW2. See Rev. Rul. 85-13. Therefore, the proposed transfers of life insurance contracts, even though for valuable consideration, will be disregarded for federal income purposes, and will not affect the application of section 101(a)(1) to amounts the beneficiaries of the policies will receive upon the death of H, in the case of the single life policies, or upon the death of both H and W, in the case of the joint lives policies.

Based solely on the information submitted and on the representations made, it is held:

- (1) The sale, for a valuable consideration, by the trustees of the H1 Trust, to the trustees of the H2 Trust, of each of the life insurance policies insuring the life of H, will be disregarded for federal income tax purposes and is not a transfer for value within the meaning of section 101(a)(2).
- (2) The sale, for a valuable consideration, by the trustees of the HW1 Trust, to the trustees of the HW2 Trust, of each of the life insurance policies insuring the joint lives of H and W, will be disregarded for federal income tax purposes and is not a transfer for value within the meaning of section 101(a)(2).

No opinion is expressed or implied concerning the qualification of the policies as life insurance contracts under section 7702. Moreover, we express no opinions as to the treatment of the transaction for estate or gift tax purposes.

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

In accordance with the Power of Attorney on file with this office, the originals are being sent to Taxpayers with a copy of this letter being sent to Taxpayers' authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury

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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
Associate Chief Counsel
(Financial Institutions & Products)