

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

March 27, 2000

Legend

Estate =

Decedent =

Trust =

Charity =

Date 1 =

Date 2 =

\$x =

Dear Sir:

We received your letter dated September 29, 1999, submitted on behalf of Estate. You have requested a ruling that the testamentary gift of the residue of Decedent's estate to Trust qualifies for the federal estate tax charitable deduction under § 2055(a) of the Internal Revenue Code. This letter responds to that request.

The facts and representations submitted are summarized as follows: Decedent died on Date 1. In her will, Decedent left the residue of her estate to Trust for the benefit of Charity. Trust was formed on Date 1. On Date 2, the Internal Revenue Service issued a determination letter stating that Trust is an organization described in § 509(a)(3) and that it is exempt from federal income tax under § 501(a) as an organization described in § 501(c)(3). The value of the estate passing to or for the benefit of noncharitable beneficiaries is less than \$x, the applicable credit amount.

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You have requested a ruling that the testamentary gift of the Decedent's residuary estate to Trust for the benefit of Charity qualifies for the federal estate tax charitable deduction under § 2055(a).

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

Section 2033 provides that the value of the gross estate shall include the value of all property to the extent of the interest therein of the decedent at the time of death.

The determination letter received by Trust on Date 2 states that bequests, legacies, devises, transfers, or gifts to Trust or for Trust's use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of §§ 2055, 2106 and 2522.

Section 2055(a)(2) provides 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 or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, which is not disqualified for tax exemption under § 501(c)(3) by reason of 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.

Section 1.509(a)-7(a) of the Income Tax Regulations states the general rule that once an organization has received a final ruling or determination letter classifying it as an organization described in § 509(a)(1), (2), or (3), the treatment of grants and contributions and the status of grantors and contributors to such organization under §§ 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 2055, 2106(a)(2) and 2522 will not be affected by reason of a subsequent revocation by the Service of the organization's classification as described in § 509(a)(1), (2), or (3) until the date on which notice of change of status is made to the public (such as by publication in the Internal Revenue Bulletin) or another applicable date, if any, specified in such public notice.

Section 1.509(a)-7(b) of the regulations provides that the general rule in § 1.509(a)-7(a) will not apply if the grantor or contributor (i) had knowledge of the revocation of the ruling or determination letter classifying the organization as an organization described in § 509(a)(1), (2), or (3), or (ii) was in part responsible for, or was aware of, the act, the failure to act, or the substantial and material change on the

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part of the organization which gave rise to the revocation of the ruling or determination letter classifying the organization as an organization described in § 509(a)(1), (2), or (3).

Section 13 of Revenue Procedure 90-27, 1990-1 C.B. 514 states the general rule that a determination letter recognizing exemption is usually effective as of the date of formation of an organization if its purposes and activities during the period prior to the date of the ruling or determination letter were consistent with the requirements for exemption.

In this case, Trust, on Date 2, received a determination letter from the Service stating that Trust is a tax-exempt charitable organization. Under the rule reflected in Rev. Proc. 90-27, the determination letter is effective as of Date 1, provided the Trust's purposes and activities during the period prior to Date 2 were consistent with the requirements for exemption. Accordingly, we conclude that Estate is entitled to a charitable deduction under § 2055(a) for Decedent's bequest to Trust provided that Trust's purposes and activities during the period prior to Date 2 were consistent with the requirements for exemption from income tax under § 501(a) as an organization described in § 501(c)(3).

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under the cited provisions or any other provisions of the Code.

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

A copy of this ruling should be attached to the taxpayer's tax return filed for the year in which the transaction referred to in this ruling is completed.

Sincerely,

James C. Gibbons

James C. Gibbons
Assistant to the Chief, Branch 7
Office of the Assistant Chief Counsel
(Passthroughs & Special Industries)

Enclosure

Copy for § 6110 purposes
Copy of this letter