INTERNAL REVENUE SERVICE

IRS News Release

Media Relations Office | Washington, D.C. | Media Contact: 202.622.4000
www.irs.gov/newsroom | Public Contact: 800.829.1040

Treasury and IRS Update Rules on Exchanges for Annuities

IR-2006-161, Oct. 17, 2006

WASHINGTON — The Department of the Treasury and the Internal Revenue Service today issued proposed regulations that would address the tax treatment of an exchange of property for an annuity contract. The proposed regulations would apply the same rule to exchanges for both private annuities and commercial annuities.

A decades-old IRS ruling generally postpones tax on the exchange of appreciated property for a private annuity, a result inconsistent with the tax treatment of exchanges for commercial annuities or other kinds of property. This ruling was originally based in part on the assumption that the value of a private annuity contract could not be determined for federal income tax purposes. This assumption is no longer correct. The ruling has its roots in authorities that applied the "open transaction doctrine," which has been eroded in recent years. In addition, the Treasury Department and the IRS have learned that the ruling has been relied upon inappropriately in a number of transactions that are designed to avoid U.S. income tax. The guidance issued today proposes to declare the ruling obsolete. Charitable gift annuities would not be affected by the proposed guidance.

If adopted, the guidance would be effective immediately for transactions not completed before today. Recognizing, however, that many legitimate estate planning transactions may currently be in process, the effective date is postponed for six months for some transactions that pose the least likelihood of abuse.

—30—