

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:Br.7-PLR-107866-99

Date:

September 30, 1999

Legend

Decedent:

Personal  
Representative:

Estate:

Charity:

Date 1:  
Date 2:

Dear \_\_\_\_\_ :

We received your representative's letter of April 21, 1999, seeking a ruling to determine if a bequest from the Decedent to Charity qualifies for an estate tax charitable deduction under § 2055 of the Internal Revenue Code. This letter responds to your request.

The represented facts are as follows: Decedent created her Last Will and Testament on Date 1. Decedent died on Date 2. Article VI of Decedent's Last Will and Testament provides that the Decedent gives, devises and bequeaths all the rest, residue and remainder of Decedent's property and estate, real, personal (including securities, stocks, mutual fund, monies, etc.,) or mixed with which Decedent may die seized and possessed, wheresoever located and situated as follows: To Charity to be used in furtherance of its Charitable and Benevolent Work.

Article VI further provides that should Charity not exist at the date of Decedent's death, or should a bequest to Charity no longer qualify for an estate tax charitable deduction under the Internal Revenue Code, as then amended, Decedent gives the rest, residue and remainder herein bequeathed to such one or more organizations that qualify for an estate tax charitable deduction under the Internal Revenue Code, as then amended, as Decedent's Personal Representative shall select in its sole discretion.

From Date 1 through the present, Charity has been listed as a charitable organization in successive annual editions of Internal Revenue Service Publication No. 78.

Decedent's Personal Representative requests a ruling that the bequest from the Decedent to Charity qualifies for the estate tax charitable deduction under § 2055.

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 his death.

Section 2055(a) provides, in part, 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.

Rev. Proc. 82-39, 1982-2 C.B. 759, provides the extent to which contributors may rely on the listing of an organization in Publication No. 78, Cumulative List of Organizations described in § 170(c) of the Internal Revenue Code, for purposes of deduction contributions under § 170 of the Code and for making grants under § 4945. Rev. Proc. 82-39 also provides that § 170 of the Code, with certain limitations, allows deductions for federal income tax purposes of contributions or gifts made to or for the use of an organization that qualifies as an organization described in § 170(c). In order for contributions by donors to be deductible, the organization must qualify at the time of the contribution. Rev. Proc. 82-39 further provides that, once an organization has received a final ruling and determination letter classifying it as an organization described in § 509(a)(1), (2), or (3), the status of contributors and grantors to such organizations under §§ 170, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 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.

In this case Charity has been listed in Pub. No. 78 as a tax exempt charitable organization from Date 1 to the present. The Decedent died on Date 2. Based on Rev. Proc. 82-39, the Decedent's Estate is entitled to rely on the information in Pub. No. 78. Rev. Proc. 82-39 does not specifically address the deductibility under § 2055 of contributions to charities other than private foundations. However, contributions to public charities are as protected as contributions to private foundations, and the good faith rule protects the estate tax deductibility of contributions to a charity if the charity is listed in Pub. No. 78 at the time the transfer is made. Therefore, we conclude that the property the Decedent bequeathed to Charity is includible in the Estate of the Decedent under § 2033 and qualifies for a charitable Deduction under § 2055.

Except as ruled above, no opinion is expressed or implied as to the federal tax consequences of this transaction under any other provision of the Code.

The ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code 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,

Christine E. Ellison  
Branch Chief,  
Branch 7  
Office of the Assistant  
Chief Counsel  
(Passthroughs and  
Special Industries)