

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:  
CC:PSI:2-PLR-106096-03  
Date:  
June 3, 2003

Decedent =

Estate =

Executor =

D1 =

Year =

w =

x =

y =

z =

Charity 1 =

Charity 2 =

Charity 3 =

Dear :

This letter responds to your letter dated December 26, 2002, and subsequent correspondence, submitted by you as the authorized representative of Estate, requesting rulings under § 691 and § 642 of the Internal Revenue Code.

The information submitted states that Decedent died on D1 of Year. Decedent's assets at death included the following items: \$w in an individual retirement account (IRA); \$x of the undistributed balance of the Year minimum required distribution; and \$y

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in redeemed HH bonds, of which \$z is previously deferred income. The beneficiary of the IRA is Estate. Estate received these amounts in Year.

Decedent's will (Will) provides that, after certain bequests, the residue of Estate, after payment of taxes and expenses of administration, will be given to Charity 1, Charity 2, and Charity 3. Executor represents that Charity 1, Charity 2, and Charity 3 are exempt organizations under § 501(c)(3). Executor represents that the bequests to individuals have been completed. Accordingly, all assets in Estate will be distributed to the charitable organizations.

Executor requests the following rulings: (1) the total amount received by the Estate from the IRA is income in respect of a decedent (IRD) to the Estate and comprises part of the gross income of the Estate; (2) the taxable income realized by the Estate upon the cashing of the HH bonds is IRD to the Estate and comprises part of the gross income of the Estate; (3) the minimum required distribution comprises part of the gross income of the estate; (4) all of the gross income of the Estate has been permanently set aside for charitable purposes and all gross income is therefore deductible by the Estate under § 642(c)(2) in the taxable year of its receipt, to the extent such income is not otherwise deductible.

Section 691(a)(1) provides that the amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of the decedent's death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income for the taxable year when received, of (A) the estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent; (B) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or (C) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

Section 1.691(a)-1(b) of the Income Tax Regulations provides that the term IRD refers to those amounts to which a decedent was entitled to as gross income, but which were not properly includible in computing the decedent's taxable income for the taxable year ending with the date of the decedent's death or for a previous year under the method of accounting employed by the decedent.

Rev. Rul. 92-47, 1992-1 C.B. 198, holds that the portion of a lump sum distribution to the beneficiary of a decedent's IRA that equals the amount of the balance in the IRA at the owner's death, including unrealized appreciation and income accrued to that date, minus the aggregate amount of the owner's nondeductible contributions to the IRA is IRD under § 691(a)(1) that is includible in the gross income of the beneficiary for the taxable year the distribution is received.

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Section 642(c)(2) provides that, in the case of an estate, if an irrevocable remainder interest is transferred to or for the use of an organization described in § 170(c), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in § 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit.

Section 1.642(c)-2(d) provides that no amount will be considered to be permanently set aside, or to be used, for a purpose described in § 1.642(c)-2(a) or § 1.642(c)-2(b)(1) unless under the terms of the governing instrument and the circumstances of the particular case the possibility that the amount set aside, or to be used, will not be devoted to such purpose or use is so remote as to be negligible.

Based solely on the facts and representations submitted, we conclude that the following amounts: \$w in Decedent's IRA, less any nondeductible contributions, \$x of the undistributed balance of the Year minimum required distribution, less any nondeductible contributions, and \$z of previously deferred income from \$y of redeemed HH bonds, will be IRD to Estate, includible in its gross income, and that these amounts will be considered gross income permanently set aside which are deductible by Estate in the year of receipt under § 642(c)(2).

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transaction described above under any other provision of the Code.

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

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to Executor.

Sincerely yours,

J. THOMAS HINES  
Chief, Branch 2  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures: 2  
Copy of this letter  
Copy for § 6110 purposes