

Decedent's will provides that all assets included in the Decedent's estate shall be paid over to the Trust. Article IV of the Trust provides specific bequests of cash and personal property to specifically identified persons. Article IV of the Trust further provides that Charity shall receive a% of the residue and various residual charities shall receive the balance of the residue (collectively, "the Charities"). Article VI(A) of the Trust provides that the trustee shall have the power to make allocations, divisions, and distributions or trust property in cash or in kind, or partly in each and to allocate different kinds or disproportionate shares of property or undivided interests in property among the beneficiaries.

The Estate intends on transferring the entire IRA to Trust followed by a transfer of the IRA by the Trust to Charity in accordance with Article IV. The Estate represents that, to the extent that the value of the IRA exceeds the amount required to be distributed to Charity under Article IV, the balance of the IRA will be transferred to the various residual charities (collectively with the transfer to Charity, the "Proposed Transfers"). Estate represents that it has sufficient assets to satisfy the specific bequests other than the IRA. Estate is requesting a ruling under § 691 that the Proposed Transfers will not be transfers within the meaning of § 691(a)(2).

Section 691(a)(1) of the Code provides that the amount of all items of gross income in respect of a decedent (IRD) 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 691(a)(2) provides that if a right, described in § 691(a)(1), to receive an amount is transferred by the estate of the decedent or a person who received such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For purposes of this paragraph, the term "transfer" includes sale, exchange, or other disposition, or the satisfaction of an installment obligation at other than face value, but does not include transmission at death to the estate of the decedent or a transfer to a person pursuant to

the right of such person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

Section 1.691(a)-4(b) of the Income Tax Regulations provides that if the estate of a decedent or any person transmits the right to IRD to another who would be required by § 691(a)(1) to include such income when received in his gross income, only the transferee will include such income when received in his gross income. In this situation, a transfer within the meaning of § 691(a)(2) has not occurred.

Section 1.691(a)-4(b)(2) provides that if a right to IRD is transferred by an estate to a specific or residuary legatee, only the specific or residuary legatee must include such income in gross income when received.

Rev. Rul. 92-47, 1992-1 C.B. 198, holds that a distribution to the beneficiary of a decedent's IRA that equals the amount of the balance in the IRA at the decedent's death, less any nondeductible contributions, is IRD under § 691(a)(1) that is includable in the gross income of the beneficiary for the tax year the distribution is received.

Based solely on the facts and representations submitted, we conclude that the Proposed Transfers in satisfaction of a specific share of Trust will not be a transfer within the meaning of § 691(a)(2). Only Charity and one or more of the residual charities will include the amounts of IRD of the IRA assigned to them in their gross income when the distribution or distributions from the IRA are actually received by Charity or any of the residual charities.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transaction described above under any other provisions of the Code, including whether the Charities are § 501(c)(3) organizations.

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

Pursuant to a power of attorney on file, a copy of this letter is being sent to Estate's authorized representative.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 2
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes