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Person To Contact:
ID No.

Telephone Number:

Refer Reply To:
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PLR-119012-23

Date:
May 02, 2024

LEGEND:

CLAT =
Grantor =
Foundation 1
Foundation 2 =
Trust 1 =
Trust 2 =
Date 1 =
Date 2 =
Date 3 =

Dear _____ :

This letter ruling is in response to a request from your authorized representative, dated September 22, 2023, and subsequent documentation requesting rulings under sections 4941, 4945, and 507 of the Internal Revenue Code relating to the proposed early termination of a split-interest trust. Taxpayer represents the facts as follows.

FACTS

CLAT was established as a charitable lead annuity trust on Date 1 by Grantor, who was a substantial contributor to CLAT and therefore a disqualified person under section 4946. CLAT's trust agreement was drafted to create a guaranteed annuity that would qualify for a gift tax charitable deduction under section 2522. Under section 4947(a)(2), CLAT is a split-interest trust that is treated as a private foundation for certain purposes.

There are several disqualified persons with respect to the CLAT, including the descendants of Grantor and their spouses.

Foundation 1 and Foundation 2 (“Foundations”) are tax-exempt organizations under section 501(c)(3) and classified as private foundations under section 509(a). There are several disqualified persons with respect to the Foundations, including CLAT as a substantial contributor and descendants of Grantor and their spouses.

Trust 1 and Trust 2 (“Trusts”) are irrevocable trusts created for the benefit of Grantor’s family members and their descendants, who are disqualified persons under section 4946, and charitable organizations meeting the requirements of sections 170(c) and 2055(a).

CLAT’s trust agreement provides that its trustees shall pay a fixed annuity in equal shares to each of the Foundations for a 20-year period. There are currently two annuity payments remaining, one due in Date 2 and the last one due in Date 3. Pursuant to CLAT’s trust agreement, these payments are conditioned upon each of the Foundations being a “qualified charitable organization” within the meaning of sections 170(c)(2), 2055(a), and 2522(a).

After the final annuity amounts are paid out to the Foundations at the end of the 20-year period, the CLAT agreement provides that half of the trust estate should be paid out to each of the Trusts, provided that certain conditions are met.

CLAT represents that its investments have been more successful than Grantor had anticipated when funding CLAT and that the assets remaining in CLAT are well in excess of the annuity amounts due to the Foundations. CLAT states that the Foundations would like to receive the annuity amounts owed to them as soon as possible so that they can immediately devote these funds to their charitable missions.

The Foundations have therefore asked CLAT’s trustees to pay the remaining annuity amounts due, prior to the end of the 20-year period, without applying any present value discount. CLAT represents that its trustees are willing to pay the undiscounted annuity amounts if it obtains favorable rulings from the IRS and if the trustees of the Trusts either execute a nonjudicial settlement agreement or consent to a court order approving the payment of the undiscounted annuity amounts, which they have agreed to do.

Based on the documentation submitted and the facts and representations described above, Taxpayer requested the following rulings.

RULINGS REQUESTED

1. The payment by CLAT of the remaining undiscounted annuity amounts to the Foundations is not an act of self-dealing under section 4941.

2. The payment by CLAT of the remaining undiscounted annuity amounts to the Foundations is not a taxable expenditure under section 4945.
3. The payment by CLAT of the remaining undiscounted annuity amounts to the Foundations is not subject to a tax under section 507(c).

LAW

Section 507(a) provides, in part, that the status of any organization as a private foundation shall be terminated only if such organization notifies the Secretary of its intent to accomplish such termination.

Section 507(c) imposes a tax upon a private foundation's termination of its status as a private foundation.

Section 4941 imposes an excise tax on each act of self-dealing between a disqualified person and a private foundation.

Section 4945(a)(1) imposes a tax upon a private foundation's making of any taxable expenditure as defined in section 4945(d). Section 4945(d)(5) provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation for any purpose other than one specified in section 170(c)(2)(B).

Section 4946(a)(1)(A), (B), and (D) provide, in part, that the term "disqualified person" includes a substantial contributor to a private foundation, a foundation manager, and a member of the family, as defined in section 4946(d), of any substantial contributor to or foundation manager of a foundation. Section 4946(a)(2) provides that the term "substantial contributor" means any person who is described in section 507(d)(2), which includes the creator of a trust.

Section 4947(a)(2) provides, in part, that in the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under certain specified sections of the Internal Revenue Code, including section 2522, section 507 (relating to termination of private foundation status), section 4941 (relating to taxes on self-dealing), section 4945 (relating to taxes on taxable expenditures), as well as certain other specified Internal Revenue Code provisions relating to private foundations, shall apply as if such trust were a private foundation.

Treas. Reg. section 53.4946-1(a)(8) provides that for purposes of section 4941 only, the term "disqualified person" shall not include any organization which is described in section 501(c)(3) (other than an organization described in section 509(a)(4)).

Treas. Reg. section 53.4947-1(e)(1) provides that the provisions of section 507(a) shall not apply to a trust described in section 4947(a)(1) or (2) by reason of any payment to a beneficiary that is directed by the terms of the governing instrument of the trust and is

not discretionary with the trustee or, in the case of a discretionary payment, by reason of, or following, the expiration of the last remaining charitable interest in the trust.

Treas. Reg. section 53.4947-1(e)(2), Example 2, describes a scenario in which H creates a trust under which X, a section 501(c)(3) organization, receives \$20,000 per year for a period of 20 years, remainder to S, H's son. H is allowed a deduction under section 2522 for the present value of X's interest. Example 2 provides that when the final payment to X has been made at the end of the 20-year period in accordance with the terms of the trust, the provisions of section 4947(a)(2) will cease to apply to the trust because the trust no longer retains any amounts for which the deduction under section 2522 was allowed. The example notes that the final payment to X will not be considered a termination of the trust's private foundation status within the meaning of section 507(a).

ANALYSIS

Under section 4947(a)(2), CLAT, as a split-interest trust, is treated as a private foundation for certain purposes, including those in sections 4941, 4945, and 507. CLAT proposes to accelerate the last two payments due to the Foundations, without applying any present value discount, so the Foundations can immediately use them for charitable purposes. CLAT represents that its trustees will either execute a nonjudicial settlement agreement or consent to a court order approving the payment of the undiscounted annuity amounts. CLAT states that once these accelerated payments to the Foundations are made, it will then begin the process of make required payments to the remainder beneficiaries, the Trusts, which will take some time.

Requested Ruling 1

Section 4941 imposes an excise tax on each act of self-dealing between a disqualified person and a private foundation. Section 4941 applies to CLAT by virtue of section 4947(a)(2). However, Treas. Reg. section 53.4946-1(a)(8) provides that for purposes of section 4941 only, the term "disqualified person" shall not include any organization which is described in section 501(c)(3) (other than an organization described in section 509(a)(4)). Therefore, because the Foundations are described in section 501(c)(3) and classified as private foundations under section 509(a), the accelerated payment of the undiscounted annuity amounts from CLAT to the Foundations is not an act of self-dealing under section 4941.

Additionally, once CLAT makes the accelerated Date 2 and Date 3 annuity payments to the Foundations, CLAT will have satisfied its obligation to Foundations, and CLAT will no longer have any amounts in trust for which a charitable deduction was allowed.

Therefore, CLAT will cease to be described in section 4947(a)(2) and is no longer subject to section 4941. See Example 2 of Treas. Reg. § 53.4947-1(e)(2).

Requested Ruling 2

Section 4945(a)(1) imposes a tax upon a private foundation's making of any taxable expenditure as defined in section 4945(d). Section 4945(d)(5) provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation for any purpose other than one specified in section 170(c)(2)(B). Pursuant to its trust agreement, CLAT is making annuity payments to Foundations, which are recognized as exempt under section 501(c)(3), and consequently these payments are for a charitable purpose specified in section 170(c)(2)(B). Therefore, the accelerated payment of the undiscounted annuity amounts from CLAT to the Foundations is not a taxable expenditure under section 4945.

Additionally, as described above, once CLAT makes the final accelerated annuity payments to Foundations, CLAT will no longer have any amounts in trust for which a charitable deduction was allowed. Therefore, CLAT will cease to be described in section 4947(a)(2) and is no longer subject to section 4945. See Example 2 of Treas. Reg. § 53.4947-1(e)(2).

Requested Ruling 3

Section 507(a) provides, in part, that the status of any organization as a private foundation shall be terminated only if such organization notifies the Secretary of its intent to accomplish such termination. Section 507(c) imposes a tax upon a private foundation's termination of its status as a private foundation. Treas. Reg. section 53.4947-1(e)(1) provides that the provisions of section 507(a) shall not apply to a trust described in section 4947(a)(2) by reason of any payment to a beneficiary that is directed by the terms of the governing instrument of the trust and is not discretionary with the trustee. Here, CLAT is required by the terms of its trust agreement to make annuity payments to the Foundations and CLAT's trustees do not have discretion whether to pay the annuity amounts or not. Therefore, section 507(a) does not apply, and the accelerated payment of the undiscounted annuity amounts from CLAT to the Foundations is not subject to a termination tax under section 507(c). See Example 2 of Treas. Reg. § 53.4947-1(e)(2).

Additionally, as described above, once CLAT makes the final accelerated annuity payments to Foundations, CLAT will no longer have any amounts in trust for which a charitable deduction was allowed. Therefore, CLAT will cease to be described in section 4947(a)(2) and is no longer subject to section 507. See Example 2 of Treas. Reg. § 53.4947-1(e)(2).

RULINGS

Based on the facts and representations submitted by CLAT, we rule as follows:

1. The payment by CLAT of the remaining undiscounted annuity amounts to the Foundations is not an act of self-dealing under section 4941.
2. The payment by CLAT of the remaining undiscounted annuity amounts to the Foundations is not a taxable expenditure under section 4945.
3. The payment by CLAT of the remaining undiscounted annuity amounts to the Foundations is not subject to a tax under section 507(c).

The rulings contained in this letter are based upon information and representations submitted by or on behalf of Taxpayer and accompanied by penalty of perjury statements executed by an individual with authority to bind Taxpayer and upon the understanding that there will be no material changes in the facts. While this office has not verified any of the material submitted in support of the request for these rulings, it is subject to verification on examination. The Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2024-1, 2024-1 I.R.B. 1, section 11.05.

This letter does not address the applicability of any section of the Code or Regulations to the facts submitted, other than those sections specifically described. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to Taxpayer's authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Andrew F. Megosh, Jr.
Senior Tax Law Specialist
Exempt Organizations Branch 2
Employee Benefits, Exempt Organizations, and
Employment Taxes

cc: