

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200633009**

Release Date: 8/18/2006

Index Number: 691.00-00

Person To Contact:

ID No.

Telephone Number:

Refer Reply To:

CC:PSI:2 – PLR-121756-06

Date:

May 16, 2006

Estate =

Decedent =

Charity =

D1 =

Dear _____ :

This letter responds to a letter dated March 31, 2006, submitted on behalf of Estate by its authorized representative, requesting a ruling under § 691 of the Internal Revenue Code.

The information submitted states that Decedent died on D1, owning certain individual retirement accounts (the IRAs). Decedent's estate (Estate) is the named beneficiary of the IRAs. Decedent's will (the Will) names Charity as a residuary beneficiary. The executor of the Estate proposes to assign some or all of the IRAs to Charity in partial satisfaction of Charity's share of the residue. The Will provides that the executor of Estate shall have the power to "make distributions in cash, in kind or partly in each, either pro-rata or otherwise."

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 assignment of some or all of the IRAs to Charity in satisfaction of its share of the residue of Estate will not be a transfer within the meaning of § 691(a)(2). Only Charity

will include the amounts of IRD in the IRAs in its gross income when the distribution or distributions from the IRAs are received by Charity.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transactions described above under any other provisions of the Code, including whether the IRA is qualified under § 408 or Charity is a § 501(c)(3) organization.

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