



News Release

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Chief Counsel Seeking Comment on Gift Tax Consequences of Trusts Employing Distribution Committee

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WASHINGTON — The Internal Revenue Service announced today that it is reconsidering a series of private letter rulings (PLRs) issued by the Office of the Associate Chief Counsel, Passthroughs & Special Industries.

The PLRs address, in part, the gift tax consequences under sections 2511 and 2514 of the Internal Revenue Code of trusts that utilize a distribution committee consisting of trust beneficiaries who direct distributions of trust income and corpus. It has come to the Office of Chief Counsel's attention that the conclusions in the PLRs regarding the application of section 2514 may not be consistent with Rev. Rul. 76-503, 1976-2 C.B. 275, and Rev. Rul. 77-158, 1977-1 C.B. 285. Accordingly, the Office of Chief Counsel is requesting comments as to whether the conclusions in these PLRs regarding section 2514 can be reconciled with the revenue rulings.

These PLRs involve a situation where trust distributions are made at the unanimous consent of a distribution committee that consists of trust beneficiaries, or at the discretion of an individual committee member with the consent of the grantor. If a distribution committee member resigns or dies, the committee member is replaced with another person. The PLRs conclude that the distribution committee members have substantial adverse interests to each other for purposes of section 2514. Therefore, they do not possess general powers of appointment over the trust. Accordingly, distributions from the trust will not be subject to gift tax with respect to the distribution committee members.

However, the holdings in Rev. Rul. 76-503 and Rev. Rul. 77-158 indicate that because the committee members are replaced if they resign or die, they would be treated as possessing general powers of appointment over the trust corpus. It has been suggested that the facts presented in the PLRs are distinguishable from the revenue rulings because in the PLRs, the grantor's gift to the trust is incomplete since the grantor retains a testamentary special power of appointment. See, however, section 25.2514-1(e), Example (1) of the Gift Tax Regulations, and Rev. Rul. 67-370, 1967-2 C.B. 324.

Before the Office of Chief Counsel takes any action with respect to the PLRs, the Office of the Associate Chief Counsel, Passthroughs & Special Industries is requesting comments regarding the question of whether the distribution committee members possess general powers of appointment under section 2514. The comments could also include suggestions for a substantially similar trust structures that would achieve the intended income, gift, and estate tax objectives of the transactions described in the PLRs.

Comments should be provided within ninety (90) days of the date of this news release. Send written comments to: Internal Revenue Service, Attn: CC:PA:LPD:PR (CC:PSI:4), room 5203, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (CC:PSI:4), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, DC, or sent electronically, via Notice.comments@irs.counsel.treas.gov (indicate CC:PSI:4).