Internal Revenue Service

Number: **201702004**
Release Date: 1/13/2017

Index Number: 2055.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B04
PLR-109858-16

Date:
September 21, 2016

Legend

Decedent =
Organization =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Country =
w =
x =
Founders =

Dear :

This letter responds to your personal representative's letter of March 16, 2016, requesting estate tax rulings in connection with Decedent's bequest to Organization.

The facts submitted and representations made are as follows:

Decedent was a United States citizen and resident at her death on Date 1. Article 3 of Decedent's will devises to Organization that property of Decedent's estate having a situs in Country, but only if Organization is an organization described in § 2055(a) of the Internal Revenue Code. If Organization does not satisfy the requirements of § 2055(a), then the property is to be distributed, at the sole discretion of Decedent's personal representative, to an organization that does satisfy the requirements of § 2055(a). The date-of-death value of the property to be contributed in satisfaction of the conditional bequest to Organization is $w.

Organization is a nonprofit entity created and incorporated in Country more than 40 years ago by Founders. Country approved the formation of Organization on Date 2, effective Date 3.

Organization is operated by a Board of Directors, which supervises the officers of Organization. All board members and officers are subject to Organization's Code of Ethics and Code of Good Governance, which prohibits Organization and Organization's directors and employees from using any part of the net earnings of Organization for the benefit of any private stockholder or individual, and from engaging in or using Organization's assets for lobbying, attempting to influence legislation, or in any other manner involving political activities.

Under Article 6 of the bylaws adopted by Organization, Organization's mission is to improve the quality of life of the handicapped and elderly. Article 7 of the bylaws grants Organization extensive means for achieving Organization's mission, including the authority to support, promote, finance, and sponsor the training, preparation, and formation of people through aids, contributions, subsidies, and scholarships. In carrying out its mission, Organization administers programs and implements projects in Country at the national and local level and has received national and international recognition for its commitment to improving the quality of life of the handicapped and elderly, particularly those who are underprivileged or affected by conflict.

It is represented that Organization finances its activities largely from its endowment assets, which were gifted to Organization upon creation from Founders, none of whom were United States citizens or residents. From the inception of Organization to the present, Organization has not had any U.S. investments nor has it engaged in trade or business in the United States. As of Date 4, the total endowment was in excess of $x. It is further represented that not taking into account Decedent's conditional bequest to Organization, Organization has received no gifts from U.S. donors, although it has received gifts from non-U.S. donors.

It is represented that Organization has not engaged in any "prohibited transactions" (within the meaning of § 4948(c)) and Organization has not been notified that it has engaged in any such prohibited transaction.

You have requested a ruling that Decedent's estate is entitled to a deduction under § 2055(a) for the bequest to Organization and that the deduction is equal to the fair market value of the bequest.

LAW AND ANALYSIS

Under § 2055(a), for purposes of the federal estate tax, the value of the taxable estate shall be determined by deducting from the value of the gross estate of a decedent who was a citizen or resident of the United States at the time of his death, the amount of all bequests, legacies, devises or transfers to or for the use of any corporation or association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual, which is not disqualified for tax exemption under § 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 20.2055-1(a)(4) of the Estate Tax Regulations provides, in relevant part, that the deduction allowed under § 2055 is not limited, in the case of estates of citizens or residents of the United States, to transfers to domestic corporations or associations, or to trustees for use within the United States.

Section 2055(d) provides that the amount of the deduction under § 2055 for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

Section 2055(e)(1) provides that no deduction shall be allowed under § 2055 for a transfer to or for the use of an organization or trust described in § 508(d) or § 4948(c)(4) subject to the conditions specified in such sections.

Section 508(d)(1) provides that, under certain circumstances, no bequest made to an organization is allowed as a deduction under § 2055 if the tax provided by § 507(c) (relating to termination of private foundation status) has been imposed on such organization.

Section 508(d)(2)(A) provides, in relevant part, that no bequest made to an organization is allowed as a deduction under § 2055 if the bequest is made to a private foundation in a taxable year for which the organization fails to meet the requirements of § 508(e) (relating to governing instrument requirements).

Section 4948(b) provides, however, that § 507, § 508, and chapter 42 (other than § 4948) will not apply to any foreign organization which has received substantially all of its support (other than gross investment income) from sources outside the United States.

Section 53.4948-1(b) of the Private Foundation Regulations provides, in part, that § 507, § 508, and chapter 42 (other than § 4948) will not apply to any foreign organization which, from the date of its creation, has received at least 85 percent of its support as defined in § 509(d), other than gross investment income under § 509(d)(4), from sources outside the United States. Section 509(d) provides, in part, that "support" includes, but is not limited to gifts, grants, contributions, or membership fees.

Section 4948(c)(1) provides that a foreign organization described in § 4948(b) shall not be exempt from taxation under § 501(a) if it has engaged in a prohibited transaction after December 31, 1969.

Section 4948(c)(4) provides, in relevant part, that no bequest shall be allowed as a deduction under § 2055 if made—

(A) to a foreign organization described in § 4948(b) after the date on which the Secretary publishes notice (under § 4948(c)(3)(A)) that he has notified such organization that it has engaged in a prohibited transaction (within the meaning of § 4948(c)(2)), and

(B) in a taxable year of such organization for which it is not exempt from taxation under § 501(a) by reason of § 4948(c)(1).

In this case, the exclusive purpose of Organization is to improve the quality of life of the handicapped and the elderly, particularly those who are underprivileged or affected by conflict, and it is represented that Organization has operated properly to carry out the activities undertaken in pursuit of this mission. Organization is prohibited from using any part of the net earnings of Organization to the benefit of any private stockholder or individual, and Organization is not permitted to engage in or use its assets for lobbying, attempting to influence legislation, or any other political activities. Accordingly, Decedent's bequest was made to an organization described in § 2055(a)(2).

Further, based on the facts provided and representations made, Organization has received all of its support from sources outside the United States, has not engaged in any prohibited transactions (within the meaning of § 4948(c)), and has not been notified that it has engaged in any such prohibited transaction. Therefore, we conclude that § 2055(e)(1) is not applicable. Accordingly, Decedent's estate is entitled to a deduction equal to the fair market value of the property included in the gross estate that passes to Organization.

This letter does not address the applicability of any section of the Code or Regulations to the facts submitted other than with respect to the sections specifically described. In particular, this letter does not constitute a determination that Organization is exempt from tax under § 501(a) as an organization described in § 501(c)(3).

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code 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 your authorized representative.

Sincerely,

Karlene M. Lesho
Karlene M. Lesho
Senior Technician Reviewer
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure

Copy for § 6110 purposes

: