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From: [redacted]
Sent: Thursday, November 9, 2023 3:41:42 PM
To: [redacted]
Cc: [redacted]
Bcc:
Subject: RE:

[redacted],

You asked whether a levy may reach the corpus of a trust when the taxpayer is a beneficiary of the trust. You also asked if there were additional provisions in the trust document that could complicate or jeopardize collection from the trust.

A levy by the Service can attach to distributions to from the trust, but we see no reason that the Service would be warranted in reaching the trust corpus. We do note that a key provision in the trust document that may jeopardize collection of distributions requires that be a charitable organization under I.R.C. § 501(c)(3) to continue to be a beneficiary.

Under Revenue Ruling 55-210, where a taxpayer has an "unqualified fixed right" to receive periodic payments under a trust document, a federal tax lien "attaches to the taxpayer's entire right" and a notice of levy reaches distributions that have already been made in addition to "any subsequent payments or distributions that will become due thereunder." Rev. Rul. 55-210; *see* Treas. Reg. § 301.6331-1(a).

In this case, the trust document Article 2.04(a) states that the Trustee "shall distribute all net income of the trust, not less frequently than quarterly" to . This language indicates that the Trustee is mandated to make distributions of the income to , and therefore has a right to receive the periodic income distributions. However, there is no similar language regarding distributions of the trust principal. While distributions of the trust income are mandated in the document, the Trustee does not have any obligation to distribute the trust corpus, and therefore does not have an unqualified right to the balance of the trust. Since fixed interest in the trust is to the income and not the principal, a "fixed right" levy under Rev. Rul. 55-210 against would only attach to the income distributions, and not any discretionary distributions of the trust principal. But note that once the trustee has determined to make a discretionary distribution, right to that distribution also becomes subject to levy.

There is one potential issue regarding possible collection from the trust. Article 2.04(a) of the trust document states that if is ever not a charitable organization under I.R.C. § 501(c)(3), then the Trustee must select another organization with similar goals to and distribute all income to that organization. Under this section, if ceases to be a charitable organization under Section 501(c)(3), then no longer has a right to distributions from the trust income. This would make the trust assets inaccessible to any efforts to collect on tax obligation.

Let me know if you have any further questions.

Best,

[redacted]