Income Taxation of Trusts and Estates

Chapter 13

PLR 201730018 (7/28/2017)

13-1

Conversion From Nongrantor CLAT To Grantor Trust Does Not Generate Taxable Income

Background

- CLAT: With a nongrantor charitable lead annuity trust (CLAT), the trust gets a charitable contribution deduction, as the annuity payments are made to charity.

- A grantor CLT entitles the grantor to an up-front charity deduction.

Ruling Request

- The Grantor converted the nongrantor CLAT to a grantor CLAT (by amending the trust agreement).

- Grantor sought to (1) not be taxed on the conversion; (2) avoid self-dealing; and (3) get an up-front charitable contribution deduction.

IRS Conclusions

1) "The conversion of Trust [charitable lead annuity trust (CLAT)] from a nongrantor trust to a grantor trust is not a transfer of property held by Trust to Grantor as settlor of Trust for income tax purposes";

2) The conversion of Trust from a nongrantor trust to a grantor trust is not an act of self-dealing that would result in a tax under §4941 because the Substitutor is not considered a disqualified person under §4946(a); and"

3) “the conversion of Trust from a nongrantor trust to a grantor trust would not result in an income tax charitable deduction to Grantor in the year of conversion under §170.”

Observation:

If the grantor sought an up-front charity deduction, then grantor should have created a grantor CLT.

AB 307, New California Probate Code Section 16350 (Approved by Governor October 08, 2017)

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Allocation of Principal or Income With Business Entities