

Internal Revenue Service

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Department of the Treasury

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Person to Contact:

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CC:DOM:P&SI:4 - PLR-113810-99

Date:

March 13, 2000

Re:
LEGEND:

Decedent =
Country =
Village =
\$x =
Nephew =
Date 1 =
Mosque =
Trust =

This is in response to your authorized representative's letter, dated August 6, 1999, requesting a ruling under § 2055 of the Internal Revenue Code concerning a proposed transfer to Trust for the benefit of Mosque located in Village, Country.

The facts and representations submitted are summarized as follows: Decedent died on Date 1, a naturalized citizen of the United States, domiciled in State. Decedent was born in Village, Country. Decedent's will provides "I donate [\$x] for the rebuilding of [Mosque] in my home town village [Village, Country], under the supervision of my nephew [Nephew].

It is represented that Mosque was built in Village, Country in 1910 by the Decedent's great-grandfather. At the present time, Mosque is in a deteriorated condition. It is necessary to demolish Mosque and to rebuild the structure since the existing foundation and retaining wall will not support any expansions. The new structure will be larger (to accommodate the increase in population in Village since 1910) and will include religious, educational, medical and social facilities.

It is represented that in order satisfy the requirements of Louisiana law, to eliminate exposure to construction liability, and to maximize the funds available to accomplish Decedent's religious and charitable purposes, the executor of Decedent's estate has formed a charitable trust (Trust) under Louisiana law. Executor proposes to deliver the \$x bequest to Trust. The purpose of Trust is limited to the reconstruction of Mosque.

After creating the Trust, Decedent's executor filed a petition with the appropriate

Louisiana court. The petition requested the court's approval to donate \$x to Trust to rebuild Mosque in Village, Country, under the supervision of Nephew, in order for the executor to carry out the expressed bequest of the Decedent. The district court issued its order approving the executor's application and authorizing the executor to make the \$x donation to Trust and to transfer said funds to Nephew, an engineer in Country, as designated trustee of the charitable trust.

The trustee of the trust is Nephew. Nephew, a naturalized citizen of the United States, resides in Country and works as a civil engineer. Nephew, as trustee, has executed a notarized document accepting the obligations and duties imposed on the trustee in Trust instrument.

Under the terms of Paragraph 1.3 of the Trust agreement, the purpose of the trust is to rebuild Mosque in Village, Country, as directed in the will of Decedent, for the benefit of Mosque in support of its purposes of fostering religious worship and carrying out the charitable functions associated with the practice of Islam. The charitable functions include providing health care, distributing food and clothing, and offering educational services to those in need in Village.

Paragraph 2.1 provides that the trustee shall use Trust principal and income, even to the exhaustion of both, to acquire such property that is movable, immovable, personal, real or mixed, or otherwise, and to retain such services as may be necessary or advisable to provide a facility tailored to the Mosque's needs and exempt purposes by rebuilding Mosque in Village, Country.

Paragraph 2.2 provides that a duly authorized representative of Mosque shall have the power to enforce the Trust and to compel an accounting from the trustee.

Paragraph 2.3 provides that on termination of the Trust, the trustee shall distribute all remaining trust assets to an organization described in § 501(c)(3) that is supportive of the Islamic religion. However, should the Trust have legal title to any assets acquired for the use of Mosque, then such assets shall be transferred to Mosque.

Paragraph 3.1 provides that the trust shall terminate upon the earlier of the date (a) on which Mosque is completed as certified by Nephew or the person responsible for physical completion of Mosque or (b) that is fifteen (15) years after the beginning of the trust.

Paragraph 11.1 provides that the Trust is to be governed by the law of Louisiana.

The Internal Revenue Service has determined that Trust is a tax exempt organization pursuant to § 501(c)(3). It is represented that the Trust does not plan to solicit any additional funds for the renovation of Mosque and that Trust will not undertake any other functions.

A ruling is requested that Decedent's estate will be entitled to an estate tax

charitable deduction under § 2055 for the \$x bequest to Trust.

Section 2001(a) of the Code imposes a tax on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

Section 2055(a)(3) provides that the value of a decedent's taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests to a trustee or trustees if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes and such trust would not be disqualified for tax exemption under § 501(c)(3) by reason of attempting to influence legislation, and such trustee or trustees does not participate in, or intervene in 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 that the charitable deduction 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.

Under the laws of Country, legal title to all mosques facilities is held by the government of Country.

Under Louisiana law, La. Rev. Stat. Ann. § 9:2271, any person may make a donation inter vivos or mortis causa (at death) to a trustee or trustees either for the benefit of educational, charitable, or literary institutions existing at the time of the donation or thereafter to be founded or for educational, charitable, or literary purposes generally without designating the particular purpose to be fostered. Accordingly, the donor may designate the particular use to be made of the donation or he may permit the trustee or trustees to designate, create, or change, from time to time and as often as they may deem wise, the beneficiary of the trust estate or of any part thereof. The donor may impose in the act of donation any conditions he may desire which are not contrary to law.

Rev. Rul. 69-285, 1969-1 C.B. 222, holds that in order for a deduction to be allowable under § 2055(a) for a bequest to or for the use of an indefinite charitable organization, 1) the terms of the bequest would be construed to impose a trust on the subject property by operation of state law, and 2) the distribution of property would be restricted under state law to organizations that are charitable within the meaning of § 2055(a). In Succession of Abraham, 136 So. 2d 471 (La. App. 1962) it was held that a bequest to the Bishop of the Catholic Church "to be used to build" a Catholic school or orphanage created a trust for the benefit of a charitable institution as specifically authorized by R.S. § 9:2271. Under Louisiana law, the terms of Decedent's will would be construed to place a fiduciary obligation on Nephew to distribute the \$x solely for the purpose of rebuilding Mosque.

Rev. Rul. 74-523, 1974-2 C.B. 304, concludes that a gift to a foreign government or political subdivision to be used exclusively for charitable purposes qualifies for an estate tax charitable deduction under § 2055. The revenue ruling cites with approval

Old Colony Trust Co. v. United States, 438 F.2d 684 (1st Cir. 1971), in which an estate tax charitable deduction was allowed for a transfer to a hospital corporation owned by a Canadian municipality; Kaplun v. United States, 436 F.2d 799 (2d Cir. 1970), in which an estate tax charitable deduction was allowed for the value of a coin collection bequeathed to the State of Israel for perpetual exhibition in a museum; and National Savings and Trust Co. v. United States, 436 F.2d 458 (Ct. Cl. 1971), in which the deduction was allowable for a bequest to a German city on the condition that it be used for the construction or improvement of a home for the aged.

The ruling states deductions under § 2055 will be disallowed for bequests of property to a foreign government or political subdivisions thereof if the use of the property is not limited to exclusively charitable purposes within the meaning of §§ 2055(a)(2) and 2055(a)(3). The Decedent's bequest is to be used exclusively to rebuild the Mosque, which will be used for religious, educational, medical and social purposes.

Trust qualifies as a charitable organization for purposes of § 2055(a)(3). Accordingly, based on the facts submitted and the representations made, we conclude that the bequest for the rebuilding of Mosque that will be effectuated by the court-approved Trust to carry out the Decedent's charitable purpose, will qualify for a deduction from Decedent's gross estate under § 2055(a) in determining the United States estate tax due by reason of Decedent's death. Specifically, the transfer to Trust must neither inure to the benefit of an individual or be used for noncharitable purposes.

Except as specifically ruled above, we express or imply no opinion concerning the federal tax consequences of this transaction under the cited provisions of the Code or any other provision of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter should be attached to Decedent's federal estate tax return when it is filed. A copy is included for that purpose.

Sincerely yours,
Office of the Assistant Chief Counsel
(Passthroughs and Special Industries)
By Deborah Y. Clark
Acting Assistant to Branch Chief, Branch 4

Enclosures: Copy of this letter/Copy for § 6110 purposes