

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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RE:

Legend:

Donor =
Spouse =
Corporation =
a =
b =
c =
d =
e =
Year =
Charity =
Trust =
Date =
State =

Dear _____ :

This letter responds to a letter dated December 15, 2010, and prior correspondence, submitted by your authorized representative, requesting rulings under §§ 2512 and 2522 of the Internal Revenue Code (Code).

Donor is the a percent shareholder of Corporation. Corporation has two classes of common stock, Class A voting and Class B non-voting. The Donor, via his revocable trust, is the beneficial owner of approximately a percent of the Class A outstanding shares and b percent of the Class B outstanding shares. Donor also owns outright c percent of the Class B outstanding shares.

The rights of the Class A shares are freely transferable. In contrast, the Class B shares are not transferable except: (1) to the Corporation; (2) in connection with an

acquisition of the Corporation; (3) in the case of natural persons, upon death or pursuant to a valid and binding court order mandating transfer; or (4) with the consent of the Corporation's Board of Directors.

The Donor and Donor's Spouse intend to transfer at least 50 percent of the Class B shares to a public charity, Charity, in Year and also to make additional transfers of the Class B shares to Charity during their life. Donor also plans to transfer during life or at death all the Class A shares to a special purpose trust, Trust.

Upon Donor's death, whether or not survived by Spouse, Donor will transfer the c percent of the Class B shares owned outright to trusts for the benefit of his children and any grandchild. Upon the death of the children and grandchild, any remaining Class B shares will pass to Charity. Donor, if not survived by Spouse, will also transfer approximately d percent of the Class B shares to Trust, and will transfer any remaining Class B shares to Charity.

If Donor is survived by Spouse, Donor will transfer approximately e percent of the Class B shares held in his revocable trust to Spouse outright and the balance to a marital trust for Spouse. Under the marital trust, d percent of the Class B outstanding shares will pass to Trust upon the death of Spouse, with the balance passing to Charity. It is anticipated that Spouse will transfer some or all of the Class B shares received either outright from Donor or otherwise to Charity.

Donor intends that Charity receive a substantial economic benefit from the Class B stock for an extended period of time. To further Donor's intent, Corporation and Charity agree, in general, that Corporation will pay an annual dividend equal to percent of the prior year's net income and that Charity will not attempt to compel a sale of Corporation.

On Date, Donor created Trust subject to the laws of State. Trust has no beneficiaries, and Donor, Spouse and their descendants are expressly forbidden from ever receiving distributions from the Trust. The trustees of Trust will have fiduciary duties to further the Trust's purpose. Donor is prohibited from being a trustee and from serving on the trustee succession committee, but while alive, Donor has the power to designate persons to fill vacancies on the succession committee. Any person appointed by Donor may not be related to or subordinate to Donor, Spouse or former spouse, or Donor's issue or their current or former spouses.

You have requested the following rulings: (1) transfers by either Donor or Spouse of Class B common stock to Charity will be transfers of the entire interest in property and not a "split-interest" under § 2522 of the Code; and (2) the value of the gifts under § 2512 is equal to the value of the gift tax charitable deduction under § 2522.

Law and Analysis

Section 2501 of the Code provides that a tax is imposed on the transfer of property by gift. Section 2511(a) provides that the gift tax applies whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible.

Section 2512 provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

Section 2522(a)(2) provides in relevant part, that in computing taxable gifts for the calendar year, there shall be allowed a deduction in the case of a citizen or resident the amount of all gifts made during such year to or for the use of a corporation or trust, operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Section 2522(c)(2) provides that where a donor transfers an interest in property (other than an interest described in § 170(f)(3)(B)) to a person, or for a use, described in § 2522(a) or (b) and an interest in the same property is retained by the donor, or is transferred or has been transferred (for less than an adequate and full consideration in money or money's worth) from the donor to a person, or for a use, not described in § 2522(a) or (b), no deduction is allowed under § 2522(a) for the interest which is, or has been transferred to the person, or for the use, described in § 2522(a) or (b), unless in the case of a remainder interest, the interest is in a charitable remainder annuity trust or a charitable remainder unitrust (described in § 664) or a pooled income fund (described in § 642(c)(5)). In the case of an interest other than a remainder interest, the interest must be in the form of a guaranteed annuity, or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly).

Section 25.2512-1 of the Gift Tax Regulations provides, in part, that if a gift is made in property, its value at the date of the gift shall be considered the amount of the gift. The value of the property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of relevant facts.

In the present case, Donor and Donor's Spouse propose to transfer Class B common stock to Charity. The Class B common stock is a separate property interest apart from the other class of stock in Corporation. Under the facts as presented, the shares of one class of stock do not constitute an interest in the shares of any other

class of stock. Therefore, we conclude that for gift tax purposes the plan described above will not result in interests in the same property passing for both charitable and noncharitable purposes within the meaning of § 2522(c)(2).

Furthermore, for gift tax purposes, the value of any property transferred to Charity will be the fair market value of that property. Under the provisions of § 25.2512-1, the fair market value is the amount that a willing buyer would pay to a willing seller, if both have reasonable knowledge of all relevant facts. Accordingly, we conclude that the value of the gifts under § 2512 is equal to the value of the gift tax charitable deduction under § 2522.

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.

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

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

Sincerely,

Leslie H. Finlow
Senior Technician Reviewer, Branch 4
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure

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Copy of this letter