

General Information Letter: Illinois income tax treatment of charitable remainder unitrusts follows the federal income tax treatment.

March 23, 2012

Dear:

This is in response to your letter dated December 1, 2011 in which you state the following:

Several weeks ago Ms. Z in our office spoke with one of your agents regarding Illinois's fiduciary filing requirements for charitable remainder unitrusts. Our firm provides trust administration services for clients across the country and prepares the Federal Form 5227 for several Illinois fiduciaries.

We recently conducted state-by-state research to confirm that our established patterns are in compliance. We did not find anything on your website specifically addressing charitable remainder unitrusts. The agent mentioned that if we submitted a letter, your department could prepare a written response for our records. We kindly request said document.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code §1200, or on the website <http://www.tax.illinois.gov/LegalInformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Charitable remainder trusts have the same obligations in regard to the reporting of income and payment of income tax as any other trust. Section 502(a)(1) of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.) provides that an income tax return is required by every person liable for an income tax. If, after making addition and subtraction modifications to taxable income as required by Section 203(c)(2), and any other adjustments, there remains a net income subject to tax, a form IL-1041 is required to be filed along with payment of tax.

Also, if the charitable remainder unitrust is a "resident" as defined by Section 1501(a)(20)(C) or (D), such a trust is required to file a form IL-1041 if the trust was required to file a federal income tax return, regardless of whether the trust is liable for an Illinois income tax. IITA Section 502(a)(2).

However, if the trust is a charitable organization exempt from federal income tax by reason of IRC 501(a), the trust is not required to file an IL-1041. Form IL-990-T will be required if the trust has unrelated business taxable income as determined under IRC 512.

The Office of the Illinois Attorney General has Illinois fiduciary filing requirements that are separate from those required by the Illinois Department of Revenue. We suggest you contact her office as well to ensure full compliance with that Agency as well:

Charitable Trust Bureau
100 W. Randolph Street
11th Floor

IT 12-0008-GIL
March 23, 2012
Page 2

Chicago, IL 60601

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott
Associate Counsel -- Income Tax