

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 1999-263-134(B), dated June 30, 1999.

Issued in Renton, Washington, on October 15, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 453

Funeral Rule Public Workshop Conference

AGENCY: Federal Trade Commission.

ACTION: Announcement of date of Public Workshop Conference.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") will hold a Public Workshop Conference in connection with the periodic regulatory review of the Commission's Trade Regulation Rule on Funeral Industry Practices, 16 CFR Part 453 (the "Funeral Rule" or the "Rule"), and the comments received in response to the Commission's call for comments on that review.

DATES: The Public Workshop Conference will be held on November 18, 1999 at the FTC's Washington, DC headquarters. The Conference will run from 9 a.m. until 5 p.m.

FOR FURTHER INFORMATION CONTACT: Myra Howard, (202) 326-2047, Division of Marketing Practices, Bureau of Consumer Protection, Federal Commission, Washington, D.C. 20580, or e-mail funeralrule@ftc.gov.

SUPPLEMENTARY INFORMATION: The Commission adopted the Funeral Rule on September 24, 1982, and it became fully effective on April 30, 1984.¹ Subsequently, the Funeral Rule was amended as a result of a regulatory review and amendment proceeding begun in 1987; the amended Funeral Rule was published on January 11, 1994, and took effect July 19, 1994.² On

May 5, 1999, the Commission again published a request for comment on the Rule, 64 FR 24250 ("FR Notice"), as part of its continuing program of periodic review of all of its trade regulation rules ("Rule Review") to determine their current effectiveness and impact. The FR Notice sought comment on the standard regulatory review questions, such as what are the costs and benefits of the Rule, whether there is a continuing need for the Rule, what changes in the Rule would increase the Rule's benefits to consumers and how these changes would affect compliance costs, and what changes in the marketplace and new technologies may affect the Rule.

The FR Notice also sought comment on several distinct issues: (1) Whether the Commission should amend the Rule by revising its definition of "funeral provider;" (2) Whether the Commission's casket handling fee prohibition has been effective and how it had affected consumers and funeral providers; (3) Whether the Commission should retain the provision that allows one, and only one, non-declinable fee to cover the basic services of the funeral director and staff; and (4) Whether the Commission should add, delete, or revise any of the required disclosures on the General Price List.

The initial deadline for written comments was July 12, 1999, but based on a number of requests from commenters, the deadline was extended until August 11, 1999. 64 FR 35965 (July 2, 1999). In its May 5, 1999 FR Notice regarding the regulatory review of the Funeral Rule, the Commission also stated that FTC staff would conduct a Public Workshop Conference to discuss the written comments received in response to the solicitation of comments pursuant to the Rule Review. The initial deadline to submit a request to participate in the public workshop was July 12, 1999, but was also extended until August 11, 1999.

The Public Workshop Conference, which will be held on November 18, 1999, will afford Commission staff and interested parties an opportunity to discuss openly issues raised during the Rule Review, and, in particular, to examine publicly any areas of significant controversy or divergent opinions that are raised in the written comments. Commission staff will consider the views and suggestions made during the Conference, in conjunction with the written comments, in formulating its final recommendation to the Commission concerning the Funeral Rule.

The Commission staff will select a limited number of parties to represent

the significant interests affected by the Funeral Rule. These parties will participate in an open discussion of the issues. It is contemplated that the selected parties might ask and answer questions based on their respective comments.

In addition, the Conference will be open to the general public. Members of the general public who attend the Conference may have an opportunity to make a brief oral statement presenting their views on issues raised in the rule review process. Oral statements of views by members of the general public will be limited to a few minutes. The time allotted for these statements will be determined on the basis of the time available and the number of persons who wish to make statements. The discussion will be transcribed and placed on the public record. Written submissions of views, or any other written or visual materials, will not be accepted during the Conference.

To the extent possible, Commission staff will select parties to represent the following affected interests: Funeral homes; cemeteries; monument builders; third party sellers of funeral goods; trade organizations; consumer organizations; consumers economists and academicians; Federal, State and local law enforcement and regulatory authorities; and any other interests that Commission staff may identify and deem appropriate for representation.

Parties representing the above-referenced interests will be selected on the basis of the following criteria:

1. The party submitted a comment during the comment period ending on August 11, 1999.

2. The party notified Commission staff in writing or by E-mail of its interest and, if required, authorization to represent an affected interest, on or before August 11, 1999.

3. The party's participation would promote a balance of interests being represented at the Conference.

4. The party's participation would promote the consideration and discussion of a variety of issues raised during the Rule Review process.

5. The party has experience or expertise in activities affected by the Funeral Rule.

6. The party adequately reflects the views of the affected interest(s).

7. The number of parties selected will not be so large as to inhibit effective discussion among them.

The Conference will be facilitated by a Commission staff member. It will be held on November 18, 1999, at the Federal Trade Commission's headquarters, 600 Pennsylvania Ave., NW, Washington, DC 20580. Prior to the

¹ 48 FR 45537.

² 59 FR 1592.

Conference, parties selected to represent an affected interest will be provided with copies of the comments submitted by all Conference participants. The Commission strongly encourages all interested individuals to participate in the Public Workshop Conference, as the transcripts from the Conferences will be an important part of the public record in this proceeding. Individuals wishing to make oral statements at the end of the day need not submit a request to participate, and the Commission will make every effort to provide time for all members of the general public to make statements regarding any of the rulemaking issues.

By direction of the Commission.

Donald S. Clark,

Secretary.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-116125-99]

RIN 1545-AX62

Prevention of Abuse of Charitable Remainder Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that modify the application of the rules governing the character of certain distributions from a charitable remainder trust. These regulations are necessary to prevent taxpayers from using charitable remainder trusts to achieve inappropriate tax avoidance. The regulations affect charitable remainder trusts described in section 664 and certain beneficiaries of those trusts. This document also provides a notice of public hearing on these proposed regulations.

DATES: Written comments must be received by January 19, 2000. Requests to speak (with outlines of oral comments) at the public hearing scheduled for February 9, 2000, at 10 a.m. must be submitted by January 19, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-116125-99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the

alternative, submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-116125-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/tax_regs/reglist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Catherine Moore, (202) 622-3070; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy Traynor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: This document proposes to amend sections 643 and 664 of the Income Tax Regulations (26 CFR part 1) to provide additional rules regarding charitable remainder trusts.

Background

Section 664, added to the Internal Revenue Code (Code) by section 201(e) of the Tax Reform Act of 1969 (Public Law 91-172 (83 Stat. 487, 562-64)), contains the rules for charitable remainder trusts. In general, a charitable remainder trust provides for a specified periodic distribution to one or more noncharitable beneficiaries for life or for a term of years, with an irrevocable remainder interest held for the benefit of charity. The amount distributed to the noncharitable beneficiaries may be either a sum certain, in the case of a charitable remainder annuity trust, or a fixed percentage of the net fair market value of the trust's assets valued annually, in the case of a charitable remainder unitrust. Section 664(b) provides rules for determining the character of amounts distributed by a charitable remainder trust in the hands of the beneficiary to whom the distribution is made. In general, a distribution is taxable to the beneficiary if it represents a distribution of ordinary income or capital gain of the trust. A distribution generally is not taxable to the beneficiary if it represents a distribution of tax-exempt income of the trust or of trust corpus. Section 664(c) provides that a charitable remainder trust is exempt from all taxes under subtitle A of the Code for any taxable

year except a taxable year in which the trust has unrelated business taxable income under section 512.

Section 643(a)(7), added to the Code by section 1906(b) of the Small Business Job Protection Act of 1996 (Public Law 104-188 (110 Stat. 1755, 1915)), authorizes the Secretary of the Treasury to issue regulations that may be necessary or appropriate to carry out the purposes of the rules applicable to estates, trusts, and beneficiaries, including regulations to prevent the avoidance of those purposes.

Explanation of Provisions

A. Tax-Avoidance Arrangements Using Charitable Remainder Trusts

The IRS and the Treasury Department are aware of certain abusive transactions that attempt to use a section 664 charitable remainder trust to convert appreciated assets into cash while avoiding tax on the gain from the disposition of the assets. In these transactions, a taxpayer typically contributes highly appreciated assets to a charitable remainder trust having a relatively short term and relatively high payout rate. Rather than sell the assets to obtain cash to pay the annuity or unitrust amount to the beneficiary, the trustee borrows money, enters into a forward sale of the assets, or engages in some similar transaction. Because the borrowing, forward sale, or other similar transaction does not result in current income to the trust, the parties attempt to characterize the distribution of cash to the beneficiary as a tax-free return of corpus under section 664(b)(4). Distributions may continue to be funded in this manner for the duration of the trust term (which is usually short, so as to meet the 10-percent remainder requirement of section 664(d)(1)(D) or 664(d)(2)(D)). The appreciated assets may be sold and the transaction closed out (e.g., the loan is repaid) in the last year of the trust, or the trustee may distribute the appreciated assets, subject to a contractual obligation to complete the transaction (e.g., the forward sale contract), to the charitable beneficiary.

A mechanical and literal application of rules and regulations that would yield a result inconsistent with the purposes of the charitable remainder trust provisions will not be respected. When section 664 was amended by the Revenue Reconciliation Act of 1997, Congress indicated that a scheme that, in effect, attempts to convert appreciated assets to a tax-free cash distribution to the non-charitable beneficiary is "abusive and is inconsistent with the purpose of the charitable remainder trust rules." S.