



can charitable remainder trusts avoid the self-dealing rules?

MSK Client Alert

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A pillar of the conventional wisdom of planning with charitable remainder trusts (CRTs) is that these very flexible split-interest trusts are subject to the private foundation excise tax on self-dealing transactions. But a recent IRS ruling has shaken that pillar and questioned the conventional wisdom.

Some (but not all) of the private foundation excise taxes apply to CRTs pursuant to Internal Revenue Code section 4947(a)(2), which provides that in the case of a trust which is not exempt under Code section 501(a) (i.e. a tax-exempt organization), not all of the unexpired interests which are devoted to one or more charitable purposes (i.e. a split-interest trust like a CRT) and *which has amounts in trust for which a charitable deduction was allowed*, Code section 4941 (excise tax on self-dealing) shall apply as if such trust were a private foundation.

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