

## SECTION 7. DESTRUCTION AND DELETION OF ORIGINAL BOOKS AND RECORDS

This revenue procedure permits the destruction of the original hardcopy books and records and the deletion of the original computerized records (other than "machine-sensible" records required to be retained by Rev. Proc. 91-59, 1991-2 C.B. 841), after the taxpayer:

- (1) has completed its own testing of the electronic storage system that establishes that hardcopy or computerized books and records are being reproduced in compliance with all the provisions of this revenue procedure; and
- (2) has instituted procedures that ensure its continued compliance with all the provisions of this revenue procedure.

## SECTION 8. IMPACT ON MACHINE-SENSIBLE RECORDS

The provisions of this revenue procedure regarding electronically stored books and records do not relieve taxpayers of the responsibility of retaining any other books and records required to be retained under § 6001. Such other books and records may include "machine-sensible" records required to be retained by Rev. Proc. 91-59 in connection with the taxpayer's use of an automatic data processing (ADP) system.

## SECTION 9. PENALTIES

The District Director may issue a Notice of Inadequate Records pursuant to § 1.6001-1(d) if the taxpayer's books and records are available only as electronically stored books and records and the taxpayer's electronic storage system fails to meet the requirements of this revenue procedure. Taxpayers whose electronic storage system fails to meet the requirements of this revenue procedure may also be subject to applicable penalties under subtitle F of the Code, including the § 6662(a) accuracy-related civil penalty and the § 7203 willful failure criminal penalty.

## SECTION 10. INTERNAL REVENUE SERVICE OFFICE CONTACT

.01 Questions regarding this revenue procedure should be directed to the Office of the Assistant Commissioner (Examination). The telephone number for this office is (202) 622-5480 (not a toll-free number). Written questions should be addressed to: Assistant Commissioner (Examination)

Attention: CP:EX  
Internal Revenue Service  
1111 Constitution Ave., NW  
Washington, DC 20224

.02 Questions regarding the application of this revenue procedure to a specific factual situation should be directed to the appropriate District Director.

## SECTION 11. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1533.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information are in sections 4 and 5 of this revenue procedure. This information is required to ensure that records maintained in an electronic storage system will constitute records within the meaning of § 6001. The collections of information are mandatory for a taxpayer who chooses to electronically store its books and records. The likely respondents are individuals, state or local governments, farms, business or other for-profit institutions, federal agencies or employees, nonprofit institutions, and small businesses or organizations.

The estimated total annual record-keeping burden is 1,000,400 hours.

The estimated annual burden per recordkeeper will vary from 20 hours to 22 hours, depending on individual circumstances, with an estimated average of 20 hours. The estimated number of recordkeepers is 50,000.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*26 CFR 601.201: Rulings and determination letters.*

*(Also Part I, sections 664, 1.664-1(a)(4).)*

## Rev. Proc. 97-23

### SECTION 1. PURPOSE

This revenue procedure amplifies Rev. Proc. 97-3, 1997-1 I.R.B. 85, which

sets forth areas of the Internal Revenue Code under the jurisdiction of the Associate Chief Counsel (Domestic) in which the Internal Revenue Service will not issue advance rulings or determination letters.

### SECTION 2. BACKGROUND

Rev. Proc. 97-3, section 5, lists specific areas in which rulings or determination letters will not be issued because the areas are under extensive study. This revenue procedure adds a subparagraph for certain income exception charitable remainder unitrusts under § 664(d)(3) of the Internal Revenue Code. The Service and Treasury will study whether creating or using income exception charitable remainder unitrusts to control the timing of the trust's receipt of trust income for the benefit of the unitrust recipient causes the trust to fail to function exclusively as a charitable remainder trust under § 1.664-1(a)(4) of the Income Tax Regulations. For a trust to qualify as a charitable remainder trust, it must function exclusively as a charitable remainder trust from its creation. See § 1.664-1(a)(4).

### SECTION 3. PROCEDURE

Rev. Proc. 97-3 is amplified by adding to section 5 the following: Section 664.—Charitable Remainder Trusts.—Whether a trust that will calculate the unitrust amount under § 664(d)(3) qualifies as a § 664 charitable remainder trust when a grantor, a trustee, a beneficiary, or a person related or subordinate to a grantor, a trustee, or a beneficiary can control the timing of the trust's receipt of trust income from a partnership or a deferred annuity contract to take advantage of the difference between trust income under § 643(b) and income for federal income tax purposes for the benefit of the unitrust recipient.

### SECTION 4. EFFECTIVE DATE

The revenue procedure applies to all ruling requests, including any pending in the National Office on April 17, 1997, and ruling requests received after April 17, 1997.

### SECTION 5. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 97-3 is amplified.