



**January 19, 2006**  
**Pennsylvania Personal Income Tax**  
**No. PIT-06-001**  
**Charitable Trusts**

ISSUE

Is Taxpayer a charitable trust; and if so, is Taxpayer required to file Pennsylvania Fiduciary Income Tax returns?

CONCLUSION

Because Taxpayer's distributions are exclusively made for the benefit of individuals who are victims of polio or cancer, Taxpayer is a charitable trust and is not required to file Pennsylvania Fiduciary Income Tax returns.

FACTS

Taxpayer was created in the 1960s from an estate distribution for the purpose of providing assistance to financially needy polio victims. Since the number of polio victims is small, Taxpayer's trustees believe that the decedent also intended to provide assistance to those in what is described as the "second category of bequests, i.e. cancer victims who are financially needy and residents of XYZ borough." Thus, the Taxpayer's trustees review applications for financial assistance and are authorized to award benefits only to victims of the specified diseases or the victim's estate; and no benefits are granted to other members of the victim's family. The amount of any grant is determined by the liability or potential liability of the victim considering the medical history, recommendations of the attending physician, assets and income of the victim and other sources of aid available.

In 1997, Taxpayer requested a ruling that would permit it to cease filing Pennsylvania fiduciary returns. After reviewing Taxpayer's Board Resolutions, By-Laws, grant application, and a copy of its Internal Revenue Service letter, the Department issued Taxpayer a letter ruling which concluded that Taxpayer is not required to file because it qualifies as a charitable trust.

Taxpayer states that it has not amended its Board Resolutions or By-Laws. Additionally, Taxpayer asserts that it continues to use the same grant application to award benefits and that its filing status with the Internal Revenue Service remains the same, i.e. it continues to be an exempt entity under Section 501(c)(3) of the Internal Revenue Code.

DISCUSSION

The Tax Reform Code of 1971 (the Code) provides that the term "resident trust" shall not include charitable trusts or pension or profit sharing trusts. 72 P.S. § 7301(s). The Code defines a charitable trust as "a trust operated exclusively for religious, charitable, scientific, literary or educational purposes." 72 P.S. 7301(c.1). The Pennsylvania Supreme Court has stated that the word 'charitable' in a legal sense includes every gift for a general public use which is for the benefit of an indefinite number of persons and is designed to benefit those

persons from an educational, religious, moral, physical, or social standpoint. *Hospital Utilization Project v. Commonwealth*, 507 Pa. 1, 487 A.2d 1306 (1985).

Moreover, in *Phoebe W. Hass Charitable Trust A*, 409 A.2d 27 (Pa. 1979), the Pennsylvania Supreme Court addressed the issue of whether a trust created by deed was a charitable trust and stated that for a trust to qualify for personal income tax exemption, its earnings cannot inure in whole or in part to the benefit of any private individual. Thus, since Taxpayer's Resolution and By-Laws support the conclusion that its income inures to a charitable purpose because Taxpayer's trustees are authorized to award benefits only to victims of the specified diseases or to the victims' estates and no benefits are granted to other family members of the victims, Taxpayer is a charitable trust for Pennsylvania Personal Income Tax purposes. Consequently, it is not required to file a Pennsylvania Fiduciary Income Tax return (PA-41).