

Internal Revenue Service

Number: **201931006**
Release Date: 8/2/2019
Index Number: 408.03-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:EEE:EB:QP3
PLR-133506-18

Date:
May 7, 2019

Taxpayer A =
Decedent B =
Custodian C =
IRA D =
Date 1 =
Date 2 =

Dear :

This letter responds to your request dated October 24, 2018, as supplemented by correspondence dated March 12, 2019, submitted on your behalf by your authorized representative, in which you request rulings that IRA D will not be treated as an inherited IRA under section 408(d) of the Internal Revenue Code, and that you will be permitted to roll over the proceeds of IRA D to an IRA in your own name.

The following facts and representations were submitted under penalties of perjury on your behalf:

Decedent B (born on Date 1) established IRA D, which was maintained by Custodian C. At the time of Decedent B's death, IRA D did not have a designated beneficiary. You represent that Custodian C provides that if no beneficiary is designated for IRA D, the account balance of IRA D remaining at Decedent B's death is payable to Decedent B's estate.

Decedent B died intestate on Date 2. As provided for under the relevant state law, Taxpayer A, as surviving spouse of Decedent B, is the sole heir to Decedent B's estate. Taxpayer A is also the sole administrator of the estate. Taxpayer A intends to distribute

IRA D to the estate. As administrator of Decedent B's estate, Taxpayer A will pay the proceeds of IRA D to himself. Within 60 days of receipt, Taxpayer A will roll over the proceeds of IRA D into one or more IRAs in his own name.

Based on the preceding facts Taxpayer A requests the following rulings:

1. Taxpayer A will be treated, for purposes of section 408(d)(3), as the payee or distributee of the proceeds from IRA D;
2. IRA D will not be treated as an inherited IRA within the meaning of section 408(d)(3)(C) with respect to Taxpayer A;
3. Taxpayer A will be eligible to roll over the proceeds from IRA D to an IRA set up and maintained in his own name pursuant to section 408(d)(3)(A)(i), as long as the rollover occurs no later than 60 days after the proceeds are received by Taxpayer A in his capacity as administrator of Decedent B's estate; and
4. Taxpayer A will not be required to include in gross income for federal tax purposes, for the year in which the distribution of IRA D is made, any portion of the proceeds distributed from IRA D that are timely rolled over to an IRA, set up and maintained in Taxpayer A's name.

With respect to your ruling requests, section 408(d)(1) provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) provides that section 408(d)(1) does not apply to a rollover contribution if such contribution satisfies the requirements of sections 408(d)(3)(A) and (d)(3)(B).

Section 408(d)(3)(A) provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the account is maintained if: (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution; or (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the one-year period ending on the day of such receipt such individual received

any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in his gross income because of the application of section 408(d)(3).

Section 408(d)(3)(C)(i) provides, in pertinent part, that, in the case of an inherited IRA, section 408(d)(3) shall not apply to any amount received by an individual from such account (and no amount transferred from such account to another IRA shall be excluded from gross income by reason of such transfer), and such inherited account shall not be treated as an IRA for purposes of determining whether any other amount is a rollover contribution.

Section 408(d)(3)(C)(ii) provides that an IRA shall be treated as inherited if the individual for whose benefit the account is maintained acquired such account by reason of the death of another individual, and such individual was not the surviving spouse of such other individual.

Section 1.408-8, Q&A-5, of the Income Tax Regulations, provides that a surviving spouse of an IRA owner may elect to treat the spouse's entire interest as a beneficiary in an individual's IRA as the spouse's own IRA. In order to make this election, the spouse must be the sole beneficiary of the IRA and have an unlimited right to withdraw amounts from the IRA. If a trust is named as beneficiary of the IRA, this requirement is not satisfied even if the spouse is the sole beneficiary of the trust.

In this case, Decedent B's interest in IRA D passed to her estate. Under these circumstances, Taxpayer A, as the surviving spouse of Decedent B, would not generally be permitted to treat the IRA as his own, because he was not named the beneficiary of Decedent B's IRA. However, because Taxpayer A is the administrator and sole heir to Decedent B's estate, for purposes of applying section 408(d)(3)(A) to the IRA, Taxpayer A is effectively the individual for whose benefit the account is maintained. Accordingly, if Taxpayer A receives a distribution of the proceeds of the IRA, he may roll over the distribution into his own IRA.

Therefore, with respect to your ruling requests, we conclude that:

1. Taxpayer A will be treated, for purposes of section 408(d)(3), as the payee or distributee of the proceeds from IRA D;
2. IRA D will not be treated as an inherited IRA within the meaning of section 408(d)(3)(C) with respect to Taxpayer A;
3. Taxpayer A will be eligible to roll over the proceeds from IRA D to an IRA set up and maintained in his own name pursuant to section 408(d)(3)(A)(i), as long as the rollover occurs no later than 60 days after the proceeds are received by Taxpayer A in his capacity as administrator of Decedent B's estate, and all other applicable section 408(d)(3) requirements are satisfied; and
4. Subject to section 408(d)(3)(B), Taxpayer A will not be required to include in

gross income for federal tax purposes, for the year in which the distribution of IRA D is made, any portion of the proceeds distributed from IRA D that are timely rolled over to an IRA set up and maintained in Taxpayer A's name.

Except as specifically provided herein, no opinion is expressed or implied concerning the federal tax consequences of any other aspects of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2019-1, 2019-1 I.R.B. 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if: there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2019-1, § 11.05.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Ingrid Grinde
Senior Tax Law Specialist
(Qualified Plans Branch 3)
Employee Benefits, Exempt Organizations, and
Employment Taxes

cc: