



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201430020

MAY 01 2014

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List: 408.03-00

SE: T: EP: RA: T1

Legend:

Taxpayer A =

Decedent B =

Financial Institution C =

IRA D =

IRA E =

IRA F =

Court G =

State H =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Amount 7 =

Dear:

This letter is in response to your request dated January 24, 2013, as supplemented by correspondence dated December 12, 2013, and January 14, 2014 from your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Decedent B, whose date of birth was Date 1 died on Date 2, not having attained the age of 70 $\frac{1}{2}$. Decedent B was survived by his wife, Taxpayer A, whose date of birth is Date 3. At the time of his death, Decedent B maintained IRA D with Financial Institution C. The beneficiary designation for IRA D completed by Decedent B stated "as provided by my will." Decedent B's Last Will and Testament ("Will") bequeathed his residuary estate to Taxpayer A, his wife, if she survived Decedent B for at least six months. Taxpayer A did survive Decedent B for at least six months and was his sole beneficiary. Taxpayer A was appointed sole Personal Representative of Decedent B's Estate by Court G in State H on Date 4.

Financial advisors at Financial Institution C advised Taxpayer A that due to Decedent B's failure to name a designated beneficiary, IRA D would be required to be transferred into an estate IRA. In March 2010, IRA D was transferred into IRA E (Decedent B's Estate IRA). On Date 5, a distribution of Amount 7 was made from IRA E to Taxpayer A, as Personal Representative of Decedent B's Estate and as sole beneficiary of the Estate. On Date 6, within sixty (60) days after receipt of Amount 7, Taxpayer A completed a rollover of Amount 7 into IRA F, a rollover IRA in the name of Taxpayer A maintained with Financial Institution C.

Taxpayer A, in her capacity as sole Executor and as sole beneficiary of Decedent B's Estate, intends to receive the balance of IRA E and within sixty (60) days after receipt of such distribution, Taxpayer A will transfer such distribution to IRA F.

Based on the facts and representations, Taxpayer A requests the following rulings:

1. The distribution of Amount 7 from IRA E (the Estate IRA) to Taxpayer A, as Personal Representative of Decedent B's Estate and as sole beneficiary of the Estate, constituted an eligible rollover distribution under section 408(d)(3)(A) of the Code in the year it was distributed and transferred to IRA F, and, therefore, such amount is not includible in the income of Taxpayer A in the year in which such amount was distributed and transferred.

2. Taxpayer A will be eligible to roll over the remaining proceeds from IRA E into IRA F pursuant to section 408(d)(3)(A)(i) of the Code, as long as the rollover occurs no later than the 60th day from the date the proceeds are received by Taxpayer A in her capacity as sole Personal Representative and sole beneficiary of Decedent B's Estate.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, 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 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA 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 the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) 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) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(C)(i) of the Code provides 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 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) of the Code provides that the term "inherited IRA" means an IRA acquired by an individual, other than the IRA owner's spouse, as a result of the death of the IRA owner.

Section 1.408-8 of the Income Tax Regulations, Question and Answer 5 ("Q&A 5") 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 the present case, Decedent B's IRA D was transferred to his Estate IRA, IRA E. Taxpayer A is both the sole Executor and the sole beneficiary of Decedent B's Estate with the right to dispose of the assets of the Estate. Under this set of circumstances, no third party can prevent Taxpayer A from receiving the proceeds of IRA E and rolling those proceeds over into IRA F.

Generally, if the proceeds of a decedent's IRA pass through a third party, e.g. a trust or an estate, and then are distributed to the decedent's surviving spouse, the surviving spouse shall be treated as having received the IRA proceeds from the third party and not from the decedent's IRA. Thus, generally a surviving spouse shall not be eligible to roll over the distributed IRA proceeds into his or her own IRA. However, the general rule will not apply in a case where the IRA has not yet been distributed and the surviving spouse as executor of the decedent's estate has sole authority and discretion to pay the IRA proceeds to him/her. In such a case, when the surviving spouse actually receives the IRA proceeds, the surviving spouse may roll over the amounts into an IRA set up and maintained in his/her name within 60 days.

Under this set of circumstances, the general rule set forth above will not apply. Therefore, with respect to your ruling requests, we conclude that:

1. The distribution of Amount 7 from IRA E (the Estate IRA) to Taxpayer A, as Personal Representative of Decedent B's Estate and as sole beneficiary of the Estate, constituted an eligible rollover distribution under section 408(d)(3)(A) of the Code in the year it was distributed and transferred to IRA F, and, therefore, such amount is not includible in the income of Taxpayer A in the year in which such amount was distributed and transferred.
2. Taxpayer A will be eligible to roll over the remaining proceeds from IRA E into IRA F pursuant to section 408(d)(3)(A)(i) of the Code, as long as the rollover occurs no later than the 60th day from the date the proceeds are received by Taxpayer A in her capacity as sole Personal Representative and sole beneficiary of Decedent B's Estate.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office. If you wish to inquire about this ruling, please contact (ID #) at () - . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,

Carlton A. Watkins

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

CC: