



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

201434030

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

MAY 29 2014

U.I.L. 72.20-04

T:EP:RA:A2

A =
B =
IRA C =
IRA E =
Date 1 =
Date 2 =
Date 3 =

Dear :

This is in reply to your request submitted June 28, 2013, and revised in a letter dated May 9, 2014, for a ruling on the income tax treatment of the division of assets of an IRA.

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

Individual A owned IRA C prior to Date 1. On Date 1, A initiated a series of substantially equal periodic payments (a SEPP) from IRA C, computed so as to satisfy the fixed amortization method of Revenue Ruling 2002-62. The monthly payments were computed on the basis of the expected lifetimes of A and B, using the Uniform Lifetime Table. Individual A received monthly payments of this amount from Date 1 through Date 3.

On Date 2, individuals A and B obtained a divorce. Pursuant to the judgment of divorce, the account balance of IRA C was to be divided, and approximately half of the total was to be put into new IRA E owned by B. This division was accomplished on Date 3.

You have requested a ruling that the division of IRA C and subsequent transfer of the amount specified in the divorce decree to IRA E will be considered a non-taxable transfer and will not be considered a modification of the SEPP for purposes of section 72(t)(4) of the Internal Revenue Code (the Code).

Applicable Law and Regulations:

Section 72(t)(1) of the Code provides for an additional tax on distributions from an IRA.

Section 72(t)(2)(A) of the Code provides for several exceptions to the additional tax. Section 72(t)(2)(A)(iv) provides an exception if the distribution is under the form of a series of substantially equal periodic payments made over the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and his designated beneficiary.

Section 72(t)(4) of the Code provides for a tax if a SEPP under section 72(t)(2)(A)(iv) is subsequently modified before the end of the 5-year period beginning with date of the first payment, or before the employee reaches age 59½.

Section 408(d)(6) of the Code provides that the transfer of an individual's interest in an IRA to a former spouse under a divorce decree is not to be considered a taxable transfer, and the interest transferred to the former spouse is to be treated as an IRA maintained for the former spouse.

Section 1.408-4(g)(1) of the Income Tax Regulations provides that a transfer from an IRA of an individual's interest in whole or in part to his former spouse under a valid divorce decree shall not be considered to be a distribution from such an account, nor shall it be considered to be a taxable transfer by such individual.

Conclusions:

1. The division of the assets of IRA C, and the subsequent transfer of approximately half of the total into IRA E occurred under the terms of a divorce decree. Therefore, under section 1.408-4(g)(1) the transfer is not considered to be a distribution from IRA C, nor is it considered to be a taxable transfer by A from IRA C.

2. Because the transfer is not a distribution and the interest transferred is treated as an account of the former spouse, it is not a distribution that modifies the SEPP. Therefore, the division of the assets of IRA C pursuant to the decree of divorce does not trigger the tax of section 72(t)(4) of the Code.

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.

The letter assumes that the above IRAs qualify under either section 408 of the Code or section 408A of the Code at all relevant times.

This ruling 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 by others as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact (ID#),
at

Sincerely yours,

David M. Ziegler,
Manager, EP Actuarial Group 2

Enclosures:
Deleted copy of letter ruling
Notice of Intention to Disclose

cc: