



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201437029

JUN 05 2014

Uniform Issue List: 408.03-00

Legend:

Taxpayer A =

Decedent B =

IRA C =

Custodian D =

Trust E =

Dear:

This is in response to your request dated July 24, 2013, submitted by your authorized representative, as supplemented by correspondence dated December 30, 2013, and April 24 and 30, 2014, in which you request a ruling that IRA C will not be treated as an inherited IRA within the meaning of section 408(d) of the Internal Revenue Code (the "Code") with respect to you, and that you be permitted to rollover over the proceeds of IRA C into an IRA maintained in your own name.

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

Taxpayer A is the surviving spouse of Decedent B, who died on February 29, 2012, having attained age 70½. At his death, Decedent B maintained an individual retirement account, IRA C, with Custodian D.

Taxpayer A represents that Decedent B had not designated a beneficiary for IRA C. Consistent with Custodian D's adoption agreement, Custodian D will distribute Decedent B's proceeds to his estate. Decedent B died testate, and his Last Will and Testament ("Will") named Trust E as beneficiary. Decedent B's Will

appoints Taxpayer A as his Personal Representative, and she represents that she intends to assign all of Decedent B's estate assets to Trust E, including assigning a beneficial interest in IRA C to Trust E.

Trust E appointed Taxpayer A as Successor Trustee of all Trusts created under the Trust. Trust E provides that upon Decedent B's death, Trust E is divided into two shares, the Marital Share and the Residuary Trust. Taxpayer A is the sole beneficiary of the Marital Share portion of Trust E. Trust E provides that the Marital Share is to be funded with a pecuniary amount which, if allowed as a federal estate tax marital deduction, would result in the least possible federal estate tax payable at Decedent B's death. Taxpayer A, as Successor Trustee determines which estate assets will fund the Marital Share portion of Trust E with the remainder of estate assets placed in the Residuary Trust. Taxpayer A represents that she will transfer IRA C to the Marital Share portion of Trust E. Taxpayer further represents that the Residuary Trust will be sufficiently funded with non-IRA C assets to satisfy specific bequests of Decedent B.

As sole trustee of Trust E, Taxpayer A proposes to either transfer IRA C directly into an IRA in her name, by way of a trustee-to-trustee transfer from Trust E, or to make a distribution of the assets of IRA C to herself as beneficiary of the Trust E under her power as Successor Trustee. It is Taxpayer A's intention to roll over the distribution into one or more IRAs set up and maintained in her own name.

Based on the facts and representations, you request the following rulings:

1. That the proceeds of IRA C, which will be distributed to Trust E and subsequently paid to Taxpayer A shall not constitute an inherited IRA within meaning of section 408(d)(3)(C) of the Code, with respect to Taxpayer A; and
2. That Taxpayer A, as the surviving spouse of Decedent B, may transfer IRA C directly into an IRA in her name, by means of trustee-to-trustee transfer; and
3. If IRA C is transferred by means of a trustee-to-trustee transfer, that the trustee-to-trustee transfer will be exempt from the withholding requirements of section 3405(c)(2) of the Code; or in the alternative
4. Taxpayer A, as the surviving spouse of Decedent B, may roll over the IRA C distribution she will receive into an IRA set up and maintained in her name; and
5. Taxpayer A is not required to include IRA C proceeds in income for federal income tax purposes for the year in which the IRA C proceeds are distributed and rolled over into the IRA set up and maintained in Taxpayer A's name, provided the proceeds are timely rolled over into an IRA set up

and maintained in the name of Taxpayer A; and

6. If Taxpayer A appoints IRA B to herself and receives the proceeds of IRA B, she will be treated as the payee or distributee thereof for purposes of section 408(d) of the Code.

Section 408(d)(1) of the Code 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 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:

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

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)).

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, in summary, that the rollover rules of section 408(d)(3) do not apply to inherited IRAs.

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.

Generally, if the proceeds of a decedent's IRA are payable to a trust, and are paid to the trustee of the trust, who then pays them to the decedent's surviving spouse as the beneficiary of the trust, the surviving spouse is treated as having received the IRA proceeds from the trust and not from the decedent. Accordingly, the surviving spouse, in general, is not eligible to roll over the distributed IRA proceeds into his/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 the sole trustee of the decedent's trust has sole authority and discretion under trust language to pay the IRA proceeds to him/her. In such a case, the surviving spouse may roll over the proceeds into an IRA set up and maintained in his/her name within 60 days of the date the proceeds are distributed from the IRA.

In this case, Decedent B's estate is the default beneficiary of IRA C. Decedent B's Will names Trust E as the beneficiary of his estate. As the Personal Representative of Decedent B's estate, Taxpayer A intends to transfer IRA C to Trust E. Under the terms of Trust E, and in her powers as sole Successor Trustee, Taxpayer A intends to distribute the proceeds from IRA C to herself. Taxpayer A represents that within 60 days of distributing the IRA C proceeds, she will roll them over from Trust E to an IRA set up in her own name.

Therefore, with respect to your ruling requests, we conclude as follows:

1. The proceeds of IRA C, which will be distributed to Trust E and subsequently paid to Taxpayer A as beneficiary of Trust E will not be treated as an inherited IRA within the meaning of section 408(d) of the Code with respect to Taxpayer A.

2. Taxpayer A is eligible to roll over or have transferred, by means of a trustee-to-trustee transfer, a distribution of the proceeds of IRA C into an IRA set up and maintained in her own name, as long as the rollover of such distribution occurs no later than the 60th day from the date the distribution is made from the IRA C.

3. Taxpayer A is not required to include IRA C proceeds in income for federal income tax purposes for the year in which the IRA C proceeds are distributed and rolled over into the IRA set up and maintained in Taxpayer A's name, provided the proceeds are timely rolled over into an IRA set up and maintained in the name of Taxpayer A.

4. If Taxpayer A appoints IRA C to herself and receives the proceeds of IRA C, she will be treated as the payee or distribute thereof for purposes of section 408(d) 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.

This letter is based on the assumption that IRA C met the requirements of section 408 of the Code at all relevant times, and that Trust E is valid under applicable state law. It also assumes that any rollover IRA established by Taxpayer A will also meet the requirements of section 408 of the Code at all relevant times.

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.

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 have any questions, please contact (I.D. #) by phone at or fax at . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: