



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201430026

APR 29 2014

Uniform Issue List: 408.03-00

SE: T: EP: RA: T1

Legend:

Taxpayer A =

Decedent B =

IRA C =

Custodian D =

Trust E =

IRA F =

Dear:

This is in response to your request dated May 1, 2013, as supplemented by correspondence dated May 10, 2013 submitted on your behalf by your authorized representative, in which you request a ruling that IRA F (formerly 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 roll over the proceeds of IRA F into an IRA maintained in your own name.

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

Taxpayer A is the surviving spouse of Decedent B, who died on March 11, 2012, not having attained 70½. At his death, Decedent B maintained an individual retirement account, IRA C, with Custodian D. Decedent B had executed a beneficiary designation form for IRA C on December 14, 2007, in which he named Trust E as the primary beneficiary.

Trust E was established by Taxpayer A (Decedent B's spouse) on June 9, 1994. Pursuant to Article One, Section 1, of Trust E, Taxpayer A and Decedent B were the initial trustees of Trust E. Article Fifteen, Section 3 of Trust E provides that upon Decedent B's death, Taxpayer A becomes the sole trustee of Trust E. Taxpayer A represents that she is currently acting as sole trustee of Trust E.

Pursuant to Article Four of Trust E, during her lifetime, Taxpayer A as owner of Trust E has the express and total power to control and direct payments, add or remove trust property, and amend or revoke Trust E.

Pursuant to Article Five of Trust E, Taxpayer A has the power to exercise without approval of any Trustee or any beneficiary, all rights, powers, options, and privileges with respect to any retirement plan or annuity or any other third-party beneficiary contract made payable to Trust E.

Taxpayer A represents that on April 16, 2012, IRA C was transferred, via trustee-to-trustee transfer, to IRA F, an IRA for the benefit of Trust E.

As the owner and sole trustee of Trust E, it is Taxpayer A's intention to roll over IRA F into one or more IRAs set up and maintained in her own name.

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

1. Taxpayer A, as Decedent B's spouse, will be treated as having acquired IRA F directly from Decedent B for purposes of section 408(d)(3) of the Code, and not from Trust E.
2. IRA F will not be treated as an inherited IRA within the meaning of section 408(d) of the Code with respect to Taxpayer A.
3. Taxpayer A is eligible to roll over the distribution from IRA F to an IRA established and maintained in her own name pursuant to section 408(d)(3)(A)(i) of the Code, provided that the rollover occurs no later than the sixtieth day following the day the proceeds of IRA F are distributed.
4. Taxpayer A will not be required to include in her gross income for federal income tax purposes for the calendar year in which the distribution and rollover occur the amount distributed from IRA F and timely rolled over into an IRA established and maintained in Taxpayer A's name.

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:

- (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)).

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 obtained 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'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 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, 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.

In this case, Taxpayer A is the owner of Trust E. Furthermore, Taxpayer A retains the lifetime power to revoke Trust E, and has the power to distribute to herself any portion or all of the property of Trust E. Decedent B designated Trust E as the beneficiary of IRA C. Upon the death of Decedent B, IRA C was transferred to IRA F for the benefit of Trust E. As noted above, Taxpayer A was Decedent B's surviving spouse. Taxpayer A, as owner and sole trustee of Trust E intends to distribute IRA F to herself as owner of Trust E and then roll over the distribution to one or more IRAs set up and maintained in her own name.

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

1. Taxpayer A, as Decedent B's spouse, will be treated as having acquired IRA F from Decedent B, for purposes of section 408(d)(3) of the Code, and not from Trust E.
2. IRA F will not be treated as an inherited IRA within the meaning of section 408(d) of the Code with respect to Taxpayer A.
3. Taxpayer A is eligible to roll over a distribution of the proceeds of IRA F into an IRA set up and maintained in her own name as long as the rollover of the distribution occurs no later than the 60th day from the date the distribution is received from IRA F.
4. For the calendar year in which the distribution and rollover occur, Taxpayer A will not be required to include in her gross income (for federal income tax purposes) the amount distributed from IRA F and timely rolled over into one or more IRAs established and maintained in Taxpayer A's name.

This letter ruling assumes that IRA F (formerly IRA C) met the requirements of section 408(a) of the Code at all relevant times and that Trust E is valid under applicable state law. It also assumes that the rollover IRA to be set up by Taxpayer A will meet the requirements of section 408 of the Code at all relevant times.

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

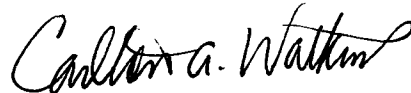
This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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A copy of this letter is being 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 (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: