Internal Revenue Service

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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:QP4
PLR-126605-19

Date:
May 20, 2020

Legend

Decedent	=
Estate A	=
Personal Representative B	=
IRA X	=
Trust Y	=
Beneficiaries	=
Date N	=
Date O	=
County P	=
State Q	=

Dear :

This is in response to your letter dated October 22, 2019, and additional correspondence dated May 18, 2020, submitted on your behalf by your authorized representative, in which you request rulings under §§ 401(a)(9) and 408 of the Internal Revenue Code.

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

Decedent maintained an Individual Retirement Account (IRA), IRA X. Decedent died on Date N, at age , after her required beginning date, as defined in § 401(a)(9). Decedent was unmarried at the time of her death. Decedent was survived by her

children (Beneficiaries). Estate A was the sole beneficiary of IRA X. Personal Representative B is the personal representative of Estate A.

Decedent's Last Will and Testament, executed on Date O, was duly admitted to probate in County P, of State Q. Pursuant to Item 3 of Decedent's Last Will and Testament, the Decedent's residuary, including IRA X, passed to Trust Y. Article II.A.5 of Trust Y provides that the residual trust assets, including IRA X, are to be divided and distributed equally to the Beneficiaries. Personal Representative B is the trustee of Trust Y. You represent that Trust Y is a valid trust under the laws of State Q.

Personal Representative B proposes to transfer, by means of a trustee-to-trustee transfer, each of the Beneficiaries' respective interests in Decedent's IRA into an inherited IRA for the benefit of such Beneficiary. Each inherited IRA will be titled "Decedent (Deceased) IRA f/b/o Beneficiary as beneficiary of Decedent's estate."

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

1. That, as the beneficiaries of Decedent's interest in the IRA, the Beneficiaries' respective interests of the IRA can be segregated and held in separate IRAs for purposes of determining each of the Beneficiaries' required minimum distributions under § 401(a)(9);

2. That the IRAs created by means of a trustee-to-trustee transfer, which will be titled "Decedent (Deceased) IRA f/b/o Beneficiary as beneficiary of Decedent's estate" with respect to each Beneficiary constitute inherited IRAs under § 408(d)(3)(C);

3. That the Beneficiaries may each receive distributions required under § 401(a)(9) from the specific beneficiary IRA set up in the name of Decedent for the benefit of each Beneficiary as a beneficiary of the Decedent's estate over the Decedent's remaining life expectancy using the age of the Decedent as of the Decedent's birthday in the calendar year of the Decedent's death reduced by one for each calendar year pursuant to § 1.401(a)(9)-5, Q&A-5(a)(2) of the Income Tax Regulations; and

4. That the transfer of each Beneficiary's respective interest in the Estate's interest in the IRA to each of the above-described beneficiary IRAs will not constitute a taxable distribution within the meaning of § 408(d)(1) to the Beneficiary and does not constitute a rollover as that term is used in § 408(d)(3).

Law

Under § 408(a)(6) and the regulations thereunder, rules similar to the rules of § 401(a)(9) and the incidental death benefit requirements of § 401(a) apply to the distribution of the entire interest of an individual for whose benefit an IRA is maintained.

Section 1.408-8, Q&A-1(a), provides that an IRA is subject to the required minimum distribution rules under § 401(a)(9). In order to satisfy § 401(a)(9), the rules of § 1.401(a)(9)-1 through 1.401(a)(9)-9 must be applied, except as otherwise provided.

Section 1.408-8, Q&A-1(b) provides that for purposes of applying the required minimum distribution rules in § 1.401(a)(9)-1 through 1.401(a)(9)-9, the IRA trustee, custodian or issuer is treated as the plan administrator, and the IRA owner is substituted for the employee.

Section 401(a)(9)(A) provides, in general, that a trust will not be considered qualified unless the plan provides that the entire interest of each employee (i) will be distributed to such employee not later than the required beginning date, or (ii) will be distributed, beginning not later than the required beginning date, over the life of such employee or over the lives of such employee and a designated beneficiary or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary.

Section 401(a)(9)(B)(i) provides, in general, that if an employee/IRA holder dies after distribution of his interest has begun in accordance with § 401(a)(9)(A)(ii) (after his required beginning date), the remaining portion of his interest must be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

Section 401(a)(9)(C) provides, in relevant part and for the relevant time period, that for purposes of this paragraph, the term “required beginning date” means April 1 of the calendar year following the calendar year in which the IRA holder attains age 70½.

Section 401(a)(9)(E) provides that for purposes of § 401(a)(9), the term designated beneficiary means any individual designated as a beneficiary by the employee.

Section 1.401(a)(9)-4, Q&A-3, states that only individuals may be designated beneficiaries for purposes of § 401(a)(9). A person that is not an individual, such as the employee's/IRA holder's estate, may not be a designated beneficiary.

Section 1.401(a)(9)-4, Q&A-4, provides, in relevant part, that in order to be a designated beneficiary, an individual must be a beneficiary as of the date of the employee’s death. Generally, an employee’s designated beneficiary for purposes of determining the distribution period for required minimum distributions after the employee’s death will be determined based on the beneficiaries designated as of the date of death who remain beneficiaries as of September 30 of the calendar year following the calendar year of the date of death (that is, have not received their entire interest before that September 30).

Section 1.401(a)(9)-5, Q&A-5(a)(2) provides, in summary, that if an employee/IRA holder dies on or after his required beginning date without having designated a beneficiary, then post-death distributions must be made over the remaining life

expectancy of the employee/IRA holder determined in accordance with § 1.401(a)(9)-5, Q&A-5(c)(3).

Section 1.401(a)(9)-5, Q&A-5(c)(3) provides, in general, that with respect to an employee/IRA holder who does not have a designated beneficiary, the applicable distribution period measured by the employee's/IRA holder's remaining life expectancy is the life expectancy of the employee/IRA holder using the age of the employee/IRA holder as of the employee's/IRA holder's birthday in the calendar year of the employee's/IRA holder's death. In subsequent calendar years, the applicable distribution period is reduced by one for each calendar year that has elapsed after the calendar year of the employee's/IRA holder's death.

Under § 1.401(a)(9)-8, Q&A-2, in general and relevant part, if an account/IRA is divided into separate accounts/IRAs for the benefit of different beneficiaries, for years subsequent to the year the separate accounts/IRAs are established or the date of death if later, then the rules of § 401(a)(9) are applied separately to each of the respective accounts/IRAs.

Section 1.401(a)(9)-8, Q&A-3, provides that, for purposes of § 401(a)(9), separate accounts in an employee's/IRA holder's account are separate portions of an employee's/IRA holder's benefit reflecting the separate interests of the employee's/IRA holder's beneficiaries under the plan as of the date of the employee's/IRA holder's death for which separate accounting is maintained. The separate accounting must allocate all post-death investment gains and losses, contributions, and forfeitures, for the period prior to the establishment of the separate accounts on a pro rata basis in a reasonable and consistent manner among the separate accounts. However, once the separate accounts are actually established, the separate accounting can provide for separate investments for each separate account under which gains and losses from the investment of the account are only allocated to that account, or investment gain or losses can continue to be allocated among the separate accounts/IRAs on a pro rata basis. A separate accounting must allocate any post-death distribution to the separate account/IRA of the beneficiary receiving that distribution.

The relevant Single Life Table determining life expectancy is provided in 1.401(a)(9)-9, Q&A-1.

Section 408(d)(1) provides that, except as otherwise provided in § 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 § 72.

Section 408(d)(3)(A) provides that § 408(d)(1) 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 § 408(d)(3)).

Section 408(d)(3)(C) provides, generally, that amounts from an "inherited" IRA cannot be rolled over into another IRA. In general, an "inherited" IRA is an IRA maintained by an individual who acquired the IRA by reason of the death of another individual if the acquiring individual is not the surviving spouse of the other individual.

Revenue Ruling 78-406, 1978-2 C.B. 157, provides that the direct transfer of funds from one IRA trustee to another IRA trustee, even if at the behest of the IRA holder, does not constitute a payment or distribution to a participant, payee or distribute, as those terms are used in § 408(d). Furthermore, such a transfer does not constitute a rollover distribution. Revenue Ruling 78-406 specifically applies in the case of a transfer by the original IRA owner from one IRA titled in the IRA owner's name to another IRA titled in the same manner.

The rules discussed above will apply to your ruling requests as follows:

1. As the beneficiaries of Decedent's interest in IRA X, the beneficiaries' respective interests of the IRA can be segregated and held in separate IRAs for purposes of paying the beneficiaries' required minimum distributions; however, the IRAs are not separate accounts within the meaning of § 1.401(a)(9)-8, Q&A-3, because they did not represent separate interests in IRA X as of the date of the Decedent's death.

2. Because the Beneficiaries will acquire the IRAs as a result of the death of Decedent, and neither Beneficiary was Decedent's spouse, the IRAs created by means of a trustee-to-trustee transfer, which will be titled in the Decedent's name for the benefit of each Beneficiary as a beneficiary of the Decedent's estate constitute inherited IRAs under § 408(d)(3)(C).

3. Because the Decedent had already been receiving distributions over her life expectancy, the Beneficiaries may each receive distributions required under § 401(a)(9) from the specific beneficiary IRA set up in the name of Decedent for the benefit of each Beneficiary as a beneficiary of the Decedent's estate over the Decedent's remaining life expectancy using the age of the Decedent as of the Decedent's birthday in the calendar year of the Decedent's death reduced by one for each calendar year pursuant to § 1.401(a)(9)-5, Q&A-5(a)(2); and

4. Consistent with the principles of Rev. Rul. 78-406, because each of the transferee IRAs is set up and maintained in the name of the deceased IRA owner for the benefit of each Beneficiary, the transfer of each Beneficiary's respective interest in the Estate's interest in the IRA to each of the above-described IRAs will not constitute a taxable

distribution within the meaning of § 408(d)(1) to the Beneficiaries and does not constitute a rollover as that term is used in § 408(d)(3).

This letter assumes that IRA X satisfies the requirements of § 408 at all relevant times. It also assumes that the transferee IRAs to be set up by the Beneficiaries will also meet the requirements of § 408 at all relevant times.

The rulings contained in this letter are based upon information and representations submitted by Trust T and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2020-1, 2020-1 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. 2020-1, § 11.05.

Except as expressly provided above, no opinion is expressed or implied concerning the federal income tax consequences of any other aspects of any transaction or item of income described in this letter ruling.

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

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,

Laura B. Warshawsky
Branch Chief
Qualified Plans Branch 1
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations, and Employment Taxes)

cc: