Private Letter Ruling 8439066

June 27, 1984

This is in response to a ruling request dated December 12, 1983, as supplemented by letters dated January 17, 1984, and February 24, 1984, submitted on your behalf by your authorized representative concerning contributions to an individual retirement arrangement (IRA) by Estate X.

A, who died on June 16, 1983, had earned income for 1983. A established IRAs in 1982 for herself, and B, her unemployed spouse. A made contributions to both IRAs for 1982, but did not make a contribution to either IRA for 1983.

Based on the foregoing, you have requested a ruling as to whether Estate X may make a tax deductible contribution to A's IRA and B's spousal IRA for 1983 without the contribution being deemed an excess contribution. You have stipulated that a maximum contribution of $2,250 will be made to both IRA's of which no more than $2,000 will be contributed to either IRA.

Section 219(a) of the Internal Revenue Code states that in the case of an individual, there shall be allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year.

Section 219(b)(1) of the Code provides that the amount allowable as a deduction to any individual for any taxable year shall not exceed the lesser of $2,000 or an amount equal to the compensation includible in the individual's gross income for such taxable year.

Section 219(c)(1) of the Code provides, in general, that an individual who maintains an IRA and who is married and files a joint return shall be allowed a deduction for a spousal IRA established on behalf of the spouse who has no compensation for such year. Section 219(c)(2) limits this deduction to the lesser of $2,250, or an amount equal to the compensation includible in the individual's gross income for the taxable year. However, no more than $2,000 can be contributed to the account of either spouse.

The term "qualified retirement contribution," as defined in section 219(e)(1)(B) of the Code, means any amount paid in cash for the taxable year by or on behalf of an individual for his benefit to an individual retirement plan.

Section 1.408-2(a) of the Income Tax Regulations specifies the person who may establish and maintain an IRA to include an individual, an employer, or an employee association. The regulations do not provide that the decedent's personal representatives, the decedent's estate, or beneficiaries of the decedent's estate can establish or maintain an IRA on behalf of an individual. This is because the primary purpose of the IRA is for retirement.

Since A is deceased, the contribution made by Estate X would not be a contribution for retirement purposes. Since A had not made a contribution to B's spousal IRA before her death, Estate X cannot, subsequent to A's death, make a contribution to B's spousal IRA based upon the compensation A received during taxable year 1983.

Based on the foregoing, we conclude that Estate X cannot make tax-deductible contributions to an IRA on behalf of A, nor can Estate X make tax-deductible contributions to B's spousal IRA for taxable year 1983.

Section 4973(a) of the Code provides that a 6 percent excise tax shall be imposed on any amount contributed to an IRA which is in excess of the amount deductible under section 219(b)(2). The 6 percent excise tax is imposed on the excess contribution the year in which it is made and each year it remains in the IRA until corrected under section 408(d)(4) or (5).

Based on the foregoing, we conclude that a contribution made by Estate X to A's or B's spousal IRA for taxable year 1983 would be considered an excess contribution and subject to the 6 percent excise tax the year the contribution is made by Estate X and each year it remains in either IRA.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.