

Private Letter Ruling 8527083

April 12, 1985

This is in response to your request for a ruling dated * * * submitted on your behalf by your authorized representative concerning contributions to your spousal individual retirement account (IRA) for taxable 1984.

Your husband died on February 23, 1984. Before he died he earned more than \$2,250 in wages for 198. You did not earn any wages in 1984.

Your husband made contributions to an IRA for taxable years 1982 and 1983. You made contributions to a spousal IRA for taxable years 1982 and 1983.

Based on the above facts, the following ruling is requested:

You will be permitted to make a tax-deductible contribution of \$2,000 to your spousal IRA for taxable year 1984, based upon your deceased husband's compensation for 1984.

Section 219(a) of the Internal Revenue Code allows a deduction in an amount equal to the qualified retirement contributions of the individual for the taxable year. Section 219(e)(1)(B) of the Code provides that the term qualified retirement contributions includes an amount paid in cash for the taxable year by or on behalf of such individual to an individual retirement plan.

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

Section 219(c) of the Code provides a special rule for certain married taxpayers. Section 219(c)(1) provides that in the case of any individual with respect to whom a deduction is allowable under section 219(a)-(A) who files a joint return under section 6013 for a taxable year, and (B) whose spouse has no compensation (determined without regard to section 911) for such taxable year, there shall be allowed as a deduction any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of his spouse. Section 219(c)(2) provides that the amount allowable as a deduction under 219(c)(1) shall not exceed the excess of (A) the lesser of – (i)\$2,250, or (ii) an amount equal to the compensation includible in the individual's gross income for the taxable year, over (B) the amount allowable as a deduction under section 219(a) for the taxable year (determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of section 219(b)(2)). In no event shall the amount allowable as a deduction exceed \$2,000.

Section 6013(a)(3) of the Code provides that, in the case of death of one spouse, a surviving spouse may file a joint return with respect to both the survivor and the decedent if no return for the taxable year has been made by the decedent, no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse.

Section 6013(c) of the Code provides that where the husband and wife have different taxable years because of the death of either spouse, the joint return shall be treated as if the taxable years of both spouses ended on the date of the closing of the surviving spouse's taxable year.

You represent that you received no compensation for 1984 and that you will file a joint return on behalf of your husband and yourself for taxable year 1984.

Based on the foregoing, we conclude that you may contribute up to \$2,000 for taxable year 1984 to your spousal IRA. This contribution may only be deducted on the joint return filed on behalf of your husband and yourself, for taxable year 1984.

This ruling is based upon your representation that no contribution has been made for 1984 on behalf of your husband to his IRA. This ruling does not permit a contribution to your husband's IRA for 1984.

Any such contribution made to your husband's IRA for taxable year 1984 would be considered an excess contribution and subject to the 6 percent excise tax for the year the contribution is made and each year it remains in your husband's 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.