200010054

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Index No.: 408.00-00

Contact Person:

Telephone Number:

In Reference to:

Date: T:EP:RA:T1

DEC 13 1999

Attn:

Legend:

Bank.....

Decedent.....

Surviving Spouse.....

IRA A.....

Dear Mr. :

This is in response to a letter dated June 30, 1999, as supplemented by letter dated October 8, 1999, submitted on your behalf by your authorized representative requesting rulings regarding the tax treatment of the transaction described below. The following facts and representations were submitted in support of your request.

Decedent died on October 28, 1996. At the time of Decedent's death, he owned IRA A and designated his Surviving Spouse as the beneficiary of IRA A. The Surviving Spouse withdrew the assets in the IRA on February 11, 1997, and redeposited into IRA A a portion of the assets on April 3, 1997, less than 60 days after the day of withdrawal. Based on the facts and representations submitted, you request the following rulings that:

(1) the Surviving Spouse was the distributee of IRA A as that terms is used in section 408 of the Internal Revenue Code (the "Code");

(2) IRA A is not an inherited IRA under section 408(d)(3)(C);

(3) the withdraw and redeposit of the assets in IRA A constituted a partial spousal rollover under Code sections 408(d)(3)(C) and (D); and

321

(4) neither the estate of the Decedent nor the Surviving Spouse is required to include in gross income for the year of the withdrawal the portion of the proceeds of IRA A which was timely rolled over into IRA A.

With respect to your ruling requests, section 408(d)(1) of the Code provides that except as otherwise provided, any amount paid or distributed from an IRA is includible in gross income by the distributee.

Section 408(d)(3)(A) of the Code provides that paragraph (1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the account is maintained if the entire amount received is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the payment is received.

Section 408(d)(3)(C) of the Code provides that in the case of an inherited IRA, the rollover provisions of section 408(d)(3)(A) do not apply to any amount received by a beneficiary from such an IRA account.

Section 408(d)(3)(C) of the Code further provides that an IRA is treated as inherited if the individual for whose benefit the IRA is maintained acquired such account by reason of the death of another individual, and such individual was not the surviving spouse of such other individual.

Section 408(d)(3)(D) of the Code provides that a portion of the amount received from an IRA may be paid into an IRA if the requirements of section 408(d)(3)(A) are otherwise satisfied.

In this case, the sole beneficiary of IRA A was the Surviving Spouse of the Decedent. In 1997, the Surviving Spouse received a distribution of the IRA A account balance, and within 60 days of the date of withdrawal, rolled over into IRA A a portion of her distribution. Since Code section 408 does not preclude a rollover of an IRA distribution into the same IRA from which the distribution was made, we conclude as follows:

(1) the Surviving Spouse was the distributee of IRA A, as that term is used in Code section 408;

(2) IRA A is not an inherited IRA under section 408(d)(3)(C);

(3) the redeposit of a portion of the proceeds into IRA A within 60 days from the day of withdrawal constituted a partial spousal rollover under sections 408(d)(3)(C) and (D); and

(4) neither the estate of the decedent nor the Surviving Spouse is required to include in gross income in the year of the withdrawal the portion of the proceeds from IRA A that was timely rolled over into IRA A.

The above rulings are based on the assumption that IRA A is a valid IRA under section 408 of

the Code at all times relevant to the transaction.

The above rulings are directed only to the taxpayer who requested them. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent. A copy of this ruling is being sent to your authorized representative in accordance with a power of attorney on file in this office.

Sincerely yours,

(Signed) John Swieca
John Swieca
Manager, Employee Plans
Technical Group 1

Enclosures:
Deleted copy of letter ruling
Notice 437

cc:

323