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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

UIL: 408-00-00
401-00-00

Contact Person:

Telephone Number:

In Reference to: T:EP:RA:T4

Date: FEB - 8 2000

Legend:

Individual A: =

Individual B: =

Trust A: =

IRA #1: =

State X: =

This is in response to your May 21, 1999, request for a private letter ruling, as supplemented by correspondence dated November 16, 1999, concerning the tax treatment of certain transactions relating to your individual retirement arrangement (IRA). The following facts and representations have been submitted in support of your ruling request.

Individual A established an IRA, IRA #1, in 1992. It is represented that the IRA established by Individual A was, at all times, in compliance with section 408(a) of the Internal Revenue Code.

Pursuant to a beneficiary designation signed prior to his section 401(a)(9) of the Code required beginning date, Individual A named Trust A the sole beneficiary of IRA #1. Trust A cannot be revoked after the death of Individual A. Your authorized representative asserts that Trust A is valid under the laws of State X, Individual A's state of domicile.

Under the terms of Trust A, upon the death of Individual A, Individual B shall become the sole trustee of Trust A. Furthermore, under the terms of Trust A, upon the death of Individual A, Individual B has the right to demand payment of the principal of Trust A assets as she sees fit.

Assets of Trust A, excluding assets received from IRA #1, may be used by the Trustee to pay funeral and other expenses related to the estate of Individual A. Under State X statute, the assets of an IRA are considered "exempt assets" and, as such, are exempt from the claims of all creditors.

Individual A reached age 70½ in 1993 and, accordingly, received distributions from IRA #1 for 1993 through 1998, in compliance with the minimum required distribution provisions of Code sections 408(a)(6) and 401(a)(9), determined by using the joint life expectancy of Individual A and Individual B.

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Based on the foregoing, you request the following ruling:

1. That Individual B, as the identifiable beneficiary of Trust A, is the designated beneficiary of IRA #1 for purposes of section 401(a)(9)(A)(ii) of the Code

Section 408(a) of the Code defines an individual retirement account as a trust which meets the requirements of sections 408(a)(1) through 408(a)(6). Section 408(a)(6) of the Code provides that under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) and the incidental death benefit requirements of section 401(a) shall apply to the distribution of the entire interest of an individual for whose benefit the trust is maintained.

Sections 401(a)(9)(A)(i) and (ii) and 401(a)(9)(C) of the Code provide that the entire interest of each employee under a plan to which the required minimum distribution rules apply must be distributed no later than April 1 of the calendar year following the calendar year in which the individual attains age 70½ (the required beginning date) or, in general, must be distributed beginning not later than the required beginning date in accordance with regulations over the life of the employee or over the lives of the 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)(E) of the Code defines the term "designated beneficiary" as any individual designated as a beneficiary by the employee.

Section 1.401(a)(9)-1, Q&A D-2A(a) of the Proposed Income Tax Regulations states, in part, that only individuals may be designated beneficiaries for purposes of section 401(a)(9) of the Code. A person who is not an individual, such as the employee's estate, may not be a designated beneficiary. However, Q&A D-5 of section 1.401(a)(9)-1 provides that beneficiaries of a trust with respect to the trust's interest in an employee's benefit may be treated as designated beneficiaries for purposes of determining the distribution period under section 401(a)(9)(A)(ii) if the requirements of paragraph (b) of this D-5 are met:

Section 1.401(a)(9)-1 Q&A D-5(b) provides that the requirements of this paragraph (b) are met if, as of the later of the date on which the trust is named as a beneficiary of the employee, or the employee's required beginning date, and as of all subsequent periods during which the trust is named as a beneficiary, the following requirements are met:

(1) The trust is valid under state law or would be but for the fact that there is no corpus.

(2) The trust is irrevocable or the trust contains language to the effect it becomes irrevocable upon the death of the employee.

(3) The beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the employee's benefit are identifiable from the trust instrument.

(4) The document described in D-7 of this section has been provided to the plan administrator.

Your authorized representative asserts, and the documentation which accompanied this ruling request, indicates that the requirements of Proposed Regulation 1.401(a)(9)-1, Q&A D-5

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have all been satisfied. Therefore, we conclude that Individual B, as the identifiable beneficiary of Trust A, is the designated beneficiary of IRA #1 for purposes of section 401(a)(9)(A)(ii) of the Code.

You have not requested, and we express no opinion in this ruling about the timing and amount of required distributions under the terms of the Trust, or the status of the Trust for purposes of other provisions of the Internal Revenue Code, including, but not limited to any federal estate tax law.

This ruling is based on the assumption that IRA #1 meets the requirements of section 408 of the Code at all times.

The Service draws your attention to the language of section 1.401(a)(9)-1 of the Proposed Income Tax Regulations, Q&A D-5, which, in short, provides that if, at any time after an IRA holder's required beginning date, a trust which does not meet the requirements of Q&A D-5(b) is the named beneficiary of the IRA, the IRA holder shall be treated as not having a designated beneficiary.

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

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

Sincerely yours, John G. Riddle, Jr., Manager, Employee Plans, Technical Group 4, Tax Exempt and Gov't Entities

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