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Internal Revenue Service

Department of the Treasury

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401.06-02

Washington, DC 20224

Contact Person:

Telephone Number:

In Reference to:
T:EP:RA:T3 ID:50-03192

Date:
FEB 9, 2000

LEGEND:

Taxpayer A:

Taxpayer B:

Date 1:

Date 2:

Date 3:

IRA X:

Dear

This is in response to the , request for letter ruling submitted on your behalf by your authorized representative in which a series of letter rulings under section 401(a)(9) of the Internal Revenue Code is requested. The following facts and representations support your ruling request.

Taxpayer A, whose date of birth was Date 1, died during 1998. Taxpayer A had attained his Code section 401(a)(9) required beginning date on April 1, 1991.

At his death, Taxpayer A owned IRA X. Taxpayer B, Taxpayer A's daughter, whose date of birth was Date 3, had been named the beneficiary of Taxpayer A's IRA X on a beneficiary designation dated Date 2, which date was prior to Taxpayer A's Code section 401(a)(9) required beginning date.

Taxpayer A has been receiving distributions from his IRA X based on his single life expectancy recalculated annually. Taxpayer B wishes to receive distribution of the amount remaining in IRA X beginning in 1999 over her life expectancy as the named beneficiary of Taxpayer A's IRA X.

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Based on the above facts and representations, you, through your authorized representative, request the following letter rulings:

1. That Taxpayer B may be treated as the designated beneficiary of Taxpayer A's IRA X;

2. that Taxpayer B had been timely designated as the beneficiary of Taxpayer A's IRA X;

3. that Taxpayer A's receiving life time distributions from his IRA X over his single life expectancy (recalculated) does not preclude Taxpayer B's receiving distributions from said IRA X during calendar years after the calendar year of Taxpayer A's death using her life expectancy;

4. that, in determining the calendar year 1999 Code section 401(a)(9) required distribution, Taxpayer B was authorized to use a life expectancy of 30.6 years. Furthermore, that such life expectancy will be reduced by one for each subsequent calendar year; and

5. that Taxpayer B's life expectancy remaining at her death (if any) may be used for purposes of determining Code section 401(a)(9) required distributions for both the calendar year of Taxpayer B's death and calendar years after the calendar year of Taxpayer B's death.

With respect to your ruling requests, 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 IRA trust is maintained.

Code 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)(C) of the Code provides, in relevant part, 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 employee (IRA holder) attains age 70 1/2.

Code section 401(a)(9)(B)(i) provides that where distributions have begun over life expectancy(cies) in accordance with subparagraph (A)(ii), a trust shall not constitute a qualified trust under this section unless the plan provides that if the employee dies before his entire interest has been distributed to him, the remaining portion of such interest will be distributed at least as rapidly as under the method of distribution being used under subparagraph (A)(ii) as of the date of death,

Section 1.401(a)(9)-1 of the proposed regulations, Q&A D-3, provides that for purposes of calculating the distribution period for distributions that begin prior to death, the designated beneficiary will be determined as of the plan participant's (IRA holder's) required beginning date.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A F-1(a), provides that where an employee's benefit is in the form of an individual account and is to be distributed over a period not extending beyond the life expectancy of the employee or the joint and last survivor expectancy of the employee and his designated beneficiary, the amount required to be distributed for each calendar year, beginning with the first calendar year for which distributions are required and for each succeeding calendar year, must be at least equal to the quotient obtained by dividing the employee's benefit by the applicable life expectancy.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A F-1(d), provides that the term "applicable life expectancy" means the life expectancy (or the joint life and last survivor expectancy) determined in accordance with E-1 through E-5 of the proposed regulations, reduced by one for each calendar year which has elapsed since the date on which the life expectancy was calculated. However, pursuant to E-6 through E-8, life expectancy is recalculated, the applicable life expectancy will be the life expectancy so recalculated.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A E-1, provides, in pertinent part, for required distributions under section 401(a)(9)(A), (pre-death commencement), life expectancies are calculated using the employee's birthday (and the designated beneficiary's birthday) in the calendar year in which the employee attained age 70 1/2.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A E-6, provides, in general, that the life expectancy of a designated beneficiary may be recalculated if the designated beneficiary is the IRA holder's spouse.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A F-3A, provides, generally, that, with respect to individual account plans from which distributions have commenced prior to the employee's death, post death distributions will comply with the "at least as rapidly as under the method of distribution being used under section 401(a)(9)(A)(ii) rule" if said distributions are madein accordance with Q&A F-1.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A E-8 provides, in pertinent part, that the life expectancy of a non-spouse beneficiary may not be recalculated. Q&A E-8 also provides, in pertinent part, that if the life expectancy of either a plan participant (IRA holder) or his beneficiary is being recalculated, the recalculated life expectancy is reduced to "0" at the end of the calendar year following the calendar year of the IRA holder's or beneficiary's death.

In this case, Taxpayer A, prior to his Code section 401(a)(9) required beginning date, named Taxpayer B as the beneficiary of his IRA X. Thus, for purposes of Code section 401(a)(9), Taxpayer A will be treated as having timely designated Taxpayer B as the beneficiary of his IRA X.

The issue presented in this case is whether post death distributions from Taxpayer A's IRA X may be made over Taxpayer B's life expectancy although distributions from IRA X during Taxpayer A's life were made over Taxpayer A's single recalculated life expectancy (and not over Taxpayer A's and Taxpayer B's joint life expectancy) without violating the "at least as rapidly" rule of Code section 401(a)(9)(B)(i) as described in section 1.401(a)(9)-1 of the proposed regulations, Q&A F-3A.

In this case, as noted above, Taxpayer A timely designated Taxpayer B as his beneficiary for purposes of Code section 401(a)(9). Thus, Taxpayer A could have received distributions over his and Taxpayer B's joint life expectancy during his lifetime subject to the minimum

distribution incidental benefit requirement. Such distributions would have complied with the minimum required distribution rules. Instead, Taxpayer A chose to receive distributions over his single life expectancy recalculated. In effect, Taxpayer A received distributions in amounts greater than the required minimums, or, in other words, chose to accelerate receipt of his lifetime distributions.

Taxpayer A's election to accelerate distributions does not affect the determination, above, that Taxpayer A's timely designating Taxpayer B as his beneficiary resulted in Code section 401(a)(9) required distributions being those computed using Taxpayer A's and Taxpayer B's joint and survivor life expectancy. Thus, although Taxpayer B's life expectancy was not used in computing lifetime distributions to Taxpayer A, it may be used to determine post-death required distributions to Taxpayer A's beneficiary. In short, the "at least as rapidly rule" will not be violated if post-death distributions are calculated using the life expectancy of Taxpayer A's designated beneficiary, Taxpayer B, since Taxpayer A could have used Taxpayer B's life expectancy to determine the amount of his required lifetime distributions.

In this case, as noted above, Taxpayer A's life expectancy was being recalculated. Thus, as of the end of 1999, the calendar year following the calendar year of his death, his life expectancy for purposes of Code section 401(a)(9) was reduced to "0". Therefore, required distributions to Taxpayer A's beneficiary will be those computed using the life expectancy of Taxpayer B, his designated beneficiary.

Therefore, with respect to your first three ruling requests, the Service concludes as follows:

1. That Taxpayer B may be treated as the designated beneficiary of Taxpayer A's IRA X;

2. that Taxpayer B had been timely designated as the beneficiary of Taxpayer A's IRA X;

3. that Taxpayer A's receiving life time distributions from his IRA X over his single life expectancy (recalculated) does not preclude Taxpayer B's receiving distributions from said IRA X during calendar years after the calendar year of Taxpayer A's death using her life expectancy.

With respect to your fourth ruling request, Taxpayer B's date of birth was Date 3. Thus, Taxpayer B was age 43 during calendar year 1990 which was the calendar year in which Taxpayer A attained age 70 1/2. Pursuant to section 1.72-9 of the regulations, Table V, the life expectancy of a 43 year old individual is 39.6 years.

As noted above, Taxpayer B is Taxpayer A's daughter. Thus, for purposes of Code section 401(a)(9), her life expectancy may not be recalculated. Therefore, in calendar year 1999, Taxpayer B's remaining life expectancy is 30.6 years. This conclusion that Taxpayer B's life expectancy is reduced to reflect the passage of the 1990 through 1999 calendar years is reached although distributions during Taxpayer A's life were made solely using his life expectancy,

Thus, with respect to your fourth ruling request, the Service concludes as follows:

4. that, in determining the calendar year 1999 Code section 401(a)(9) required distribution, Taxpayer B was authorized to use a life expectancy of 30.6 years. Furthermore, that such life expectancy will be reduced by one for each subsequent calendar year.

With respect to your fifth ruling request, as noted above, Taxpayer B's remaining life expectancy (30.6 years for calendar 1999) may be used to determine Code section 401(a)(9) required distributions from Taxpayer A's IRA X with respect to calendar years after his death. Furthermore, since Taxpayer B is Taxpayer A's daughter, her life expectancy is not subject to recalculation and will not be reduced to "0" during the calendar year following the calendar year of her death. Thus, her remaining life expectancy (if any) may be used for purposes of determining IRA X required distributions for calendar years after the calendar year of her death.

Thus, with respect to your fifth ruling request, we conclude as follows:

5. that Taxpayer B's life expectancy remaining at her death (if any) may be used for purposes of determining Code section 401(a)(9) required distributions for both the calendar year of Taxpayer B's death and calendar years after the calendar year of Taxpayer B's death.

This ruling request assumes that IRA X has met and will continue to meet the requirements of Code section 408(a) at all time relevant thereto. Furthermore, the Service's response to the fifth ruling request assumes that distributions over Taxpayer B's remaining life expectancy (if any) are consistent with the provisions of the IRA X document.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely yours,

Frances V. Sloan

Frances V. Sloan
Manager, Employee Plans
Technical Group 3
Tax Exempt and Government
Entities Division

Enclosures:

Deleted copy of letter ruling
Form 437