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Internal Revenue Service

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401.06-02

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

In Reference to:

T:EP:RA:T3 ID:50-03192

Date:

SEP 29 2000

LEGEND:

Taxpayer A:

Taxpayer B:

Taxpayer C:

Taxpayer D:

Date 1:

Date 2:

Date 3:

Date 4:

Date 5:

IRA X:

Company Y:

Sum 1:

Sum 2:

Sum 3:

Dear :

This is in response to the , letter written on your behalf by your authorized representative, as supplemented by correspondence dated , in which he, on your behalf, requests a series of letter rulings under section 401(a)(9) of the

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Internal Revenue Code. The following facts and representations support your ruling request.

Taxpayer A, whose date of birth was Date 1, died on Date 2, 1999, having attained his required beginning date as that term is defined in Code section 401(a)(9)(C). Taxpayer A had attained age 70 ½ and age 71 during the 1998 calendar year.

At his death, Taxpayer A maintained an individual retirement arrangement (IRA), IRA X, with Company Y. Your authorized representative asserts that IRA X meets the requirements of Code section 408(a).

On Date 3, which was prior to his Code section 401(a)(9) required beginning date, Taxpayer A named Taxpayers B, C, and D as the beneficiaries of his IRA X. Taxpayers B and C are Taxpayer A's children. Taxpayer D, whose date of birth was Date 5, 1943, is older than either Taxpayer B or Taxpayer C. Additionally, on Date 4, which was also prior to his "required beginning date", Taxpayer A completed a form on which he elected to receive distributions over his and his beneficiary's joint life expectancies, and on which he elected not to recalculate his life expectancy. On the same form, Taxpayer A indicated that since none of his beneficiaries was his spouse, none was eligible to recalculate his or her life expectancy. Taxpayer A subsequently married Taxpayer D. However, Taxpayer A did not modify either of the forms referenced above.

During calendar year 1999, and prior to April 1, 1999, Taxpayer A received a distribution from IRA X in the amount of Sum 1 which included the required distribution for calendar year 1998, the calendar year in which Taxpayer A attained age 70 ½. Taxpayer A's required distributions were computed in accordance with the minimum distribution incidental benefit (MDIB) requirements found in section 1.401(a)(9)-2 of the Proposed Income Tax Regulations. Prior to the end of the 1999 calendar year, an additional distribution in the amount of Sum 2 was made from IRA X to the beneficiaries thereof. The IRA X distributions for calendar year 1999 totaled Sum 3.

Your authorized representative has asserted that the required distribution for calendar year 1998 was based on a divisor of 25.3, and the required distribution for calendar year 1999 was based on a divisor of 24.4. These divisors were derived from section 1.401(a)(9)-2 of the proposed regulations, Q&A-4, Table (2).

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

1. That Taxpayer A timely selected three beneficiaries, Taxpayers B, C and D, as of his first distribution calendar year, 1998;

2. that Taxpayer A timely elected not to recalculate his life expectancy for purposes of determining required distributions from his IRA X;

3. that Taxpayer A's distributions from IRA X were subject to the MDIB requirements during his lifetime;

4. that Taxpayer D, the eldest of Taxpayers B, C, and D, is the designated beneficiary of Taxpayer A's IRA X;

5. that the MDIB requirements are no longer applicable to distributions from IRA X with respect to calendar years beginning with the calendar year following the calendar year of Taxpayer A's death;

6. that Code section 401(a)(9) required distributions from IRA X to Taxpayer B with respect to the 2000 calendar year and subsequent calendar years shall be based on the remaining joint life expectancies of Taxpayers A and D; and

7. that Code section 401(a)(9) required distributions from IRA X to Taxpayer B with respect to the 2000 calendar year and subsequent calendar years shall be based upon a period of 27.7 years for calendar year 2000 and shall be reduced by one year for each subsequent calendar year.

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)(D) provides, in general, that a plan participant (or IRA holder) and/or his spouse may recalculate his or their life expectancy (ies) but not more frequently than annually.

In general, an election either to recalculate or to not recalculate must be made no later than the plan participant's (or IRA holder's) required beginning date. Once an election to recalculate or not to recalculate is made, said election is irrevocable.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A E-5(a)(1), provides, in pertinent part, that if more than one individual is designated as a beneficiary with respect to an employee as of the applicable date for determining the designated beneficiary, the designated beneficiary with the shortest life expectancy will be the designated beneficiary for purposes of determining the distribution period. The date for determining the designated beneficiary (under D-3 or D-4, whichever is applicable) is the applicable date.

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 B-4, provides that if distributions have begun to an employee no later than his required beginning date, and the employee dies before his entire interest has been distributed to him, the remaining portion of such interest must be distributed at least as rapidly as under the distribution method used as of the date of his 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 as so recalculated.

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 E-8, provides, in pertinent part, that a recalculated life expectancy is reduced to "0" in the calendar year following the calendar year of death of the plan participant (or beneficiary) whose life expectancy was being recalculated.

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 made in 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.

Section 1.401(a)(9)-2 of the proposed regulations, Qs&As-1 through 7, sets down the general incidental benefit requirements, including the minimum distribution incidental benefit requirement, applicable to qualified plans and IRAs in those cases where a plan participant's or IRA holder's designated beneficiary is not his or her spouse.

Section.401(a)(9)-2 of the proposed regulations, Q&A-3, provides, in pertinent part, that the MDIB requirement does not apply to distributions after the employee's death.

Section.401(a)(9)-2 of the proposed regulations, Q&A-3, further provides, in pertinent part, that for calendar years beginning after December 31, 1988, distributions of an employee's benefit must commence not later than the employee's required beginning date as defined in section 401(a)(9)(C) and be made in accordance with the rules in Q&A-4 through Q&A-7 in order to satisfy the MDIB requirement. The amount required to be distributed to satisfy the MDIB requirement for a calendar year may be greater than the amount required to satisfy the other minimum distribution requirements in section 401(a)(9).

Section. 401(a)(9)-2 of the proposed regulations, Q&A-4, provides the MDIB rules applicable to distributions paid in the form of an individual account. Q&A-4 provides, in pertinent part, that the minimum amount that must be distributed for a distribution calendar year in the amount determined by dividing the employee's benefit by the applicable divisor found in the table included therein.

With specific respect to your first, second, third and fourth ruling requests, the information submitted indicates that Taxpayer A, who maintained IRA X, named Taxpayers B, C, and D as the beneficiaries thereof prior to his required beginning date.

As noted above, Taxpayers B and C are Taxpayer A's children. Additionally prior to his required beginning date, Taxpayer A elected not to recalculate his life expectancy. In addition, the life expectancy of Taxpayer D, Taxpayer A's eldest beneficiary, was not being recalculated. Furthermore, as of his required beginning date, Taxpayer A was not married to Taxpayer D. Finally, Taxpayer D is older than either Taxpayer B or Taxpayer C.

Thus, with respect to your first, second, third and fourth ruling requests, the Service concludes as follows:

1. That Taxpayer A timely selected three beneficiaries, Taxpayers B, C and D, as of his first distribution calendar year, 1998;

2. that Taxpayer A timely elected not to recalculate his life expectancy for purposes of determining required distributions from his IRA X;

3. that Taxpayer A's distributions from IRA X were subject to the MDIB requirements during his lifetime; and

4. that Taxpayer D, the eldest of Taxpayers B, C, and D, is the designated beneficiary of Taxpayer A's IRA X.

With respect to your fifth letter ruling request, as noted above, section 401(a)(9)-2 of the proposed regulations, Q&A-3, provides, in pertinent part, that the MDIB requirement does not apply to distributions after the employee's death.

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

5. that the MDIB requirements are no longer applicable to distributions from IRA X with respect to calendar years beginning with the calendar year following the calendar year of Taxpayer A's death.

With respect to your sixth and seventh ruling requests, as noted above, the MDIB requirements are not applicable to distributions made with respect to calendar years which are after the IRA holder's death. Thus, in this case, they are not applicable to calendar year 2000 and subsequent calendar years. Therefore, with respect to those calendar years, required distributions are computed based on the general rules found under Code section 401(a)(9).

Section 1.72-9 of the Income Tax Regulations, Table VI, Ordinary Joint Life and Last Survivor Annuities, indicates that the remaining joint life expectancy for taxpayers aged 71 and 55 is 29.7 years.

In this case, Taxpayer A attained age 70 ½ and age 71 during calendar year 1998. Furthermore, Taxpayer D, the eldest of the three beneficiaries of Taxpayer A's IRA X, attained age 55 during calendar year 1998. Thus, absent the application of the MDIB

rules, distributions for calendar year 1998 would have been based on a joint life expectancy of 29.7 years.

As noted above, neither Taxpayer A's nor Taxpayer D's life expectancy was being recalculated. Thus, although Taxpayer A is deceased, his life expectancy is not reduced to "0" at the end of calendar year 2000. Therefore, his remaining life expectancy, as well as the remaining life expectancy of Taxpayer D, will be used for purposes of computing required distributions from IRA X for calendar years subsequent to the calendar year of Taxpayer A's death.

Calendar year 2000 is two calendar years after calendar year 1998. Thus, required distributions for calendar year 2000 must be based on a divisor of 27.7. Furthermore, said divisor must be reduced by "1" for each subsequent calendar year.

Thus, with respect to your sixth and seventh ruling requests, the Service concludes as follows:

6. that Code section 401(a)(9) required distributions from IRA X to Taxpayer B with respect to calendar year 2000 and subsequent calendar years shall be based on the remaining joint life expectancies of Taxpayer A and D; and

7. that Code section 401(a)(9) required distributions from IRA X to Taxpayer B with respect to calendar year 2000 and subsequent calendar years shall be based upon a divisor of 27.7 years for calendar year 2000 and shall be reduced by one year for each subsequent calendar year.

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.

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

Pursuant to a power of attorney on file in this office, a copy of this letter ruling 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