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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Uniform Issue List: 401.06-01

Contact Person:

Telephone Number:

In Reference to:
T:EP:RA:T1
Date:
10/30/00

Legend:

Taxpayer A =
Taxpayer B =
Taxpayer C =
IRA W =
IRA X =
IRA Y =

Dear :

This letter is in response to a ruling request dated July 25, 2000, as supplemented by additional information dated September 22, 2000, submitted by your authorized representative, concerning a distribution from an Individual Retirement Arrangement ("IRA").

The facts on which the ruling requests are based are as follows:

Taxpayer A established and maintained IRA W until his death on May 21, 1992. IRA W satisfied the requirements of section 408(a) of the Internal Revenue Code ("Code"). His wife, Taxpayer B, inherited IRA W and on July 7, 1992, transferred it to an IRA in her own name (IRA X) . In 1992, Taxpayer C was named as primary beneficiary of IRA X. Taxpayer B was born in 1917 and Taxpayer C was born February 9, 1947. Also in 1992, Taxpayer B was beyond her required beginning date under Code section 401(a)(9). Taxpayer B began taking minimum required distributions from IRA X using the single life expectancy method of calculation. She did not make the election not to recalculate.

On October 9, 1996, Taxpayer B transferred IRA X to IRA Y, a tax-qualified variable annuity under Code section 408(b). The method of payment did not change and she

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continued taking required minimum distributions from IRA Y until her death on October 28, 1999. Currently, IRA Y has a balance of approximately $240,000. Taxpayer B received a minimum required distribution for calendar year 1999.

Based on the foregoing facts and representations, you request the following ruling:

That Taxpayer C be permitted to calculate minimum required distributions from IRA Y based on his life expectancy as of the calendar year required distributions were required to begin from IRA X (1993), subtracting 1 year for each year since.

Code section 408(a) defines an individual retirement account as a trust which meets the requirements of sections 408(a)(1) through 408(a)(6). Code section 408(b) defines an individual retirement annuity as an annuity which meets the requirements of sections 408(b)(1) through 408(b)(4). Code sections 408(a)(6) and 408(b)(3) state 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/annuity is maintained. Section 401(a)(9) sets forth the general rules applicable to required minimum distributions from qualified plans.

Code section 401(a)(9)(A)(ii) provides that a trust shall not constitute a qualified trust under that subsection unless the plan provides that the entire interest of each employee will be distributed, beginning not later than the required beginning date, in accordance with regulations, 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).

Code section 401(a)(9)(C) provides that, for purposes of this paragraph, the term required beginning date means April 1 of the calendar year following the later of (I) the year in which the employee attains age 70½ , or (II) the calendar year in which the employee retires.

Code section 401(a)(9)(B)(i) provides that, where distributions have begun under subparagraph (A)(ii), a trust shall not constitute a qualified trust under this section unless the plan provides that if (I) the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii), and (III) and 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 his death.

Section 1.401(a)(9)-1 of the Proposed Regulations, Question and Answer D-3, provides that for purposes of calculating the distribution period described in section 401(a)(9) (A)(ii) (for distributions before death), the designated beneficiary will be

determined as of the employee's required beginning date. If, as of that date, there is no designated beneficiary under the plan to receive the employee's benefit upon the employee's death, the distribution period is limited to the employee's life (or a period not extending beyond the employee's life expectancy)

Code section 401(a)(9)(D) permits an employee and his spouse to recalculate their life expectancies annually. Section 1.401(a)(9)-1 of the Proposed Regulations, Q.&A. E-8(a), provides guidance on how an employee's life expectancy is recalculated and provides that upon the death of the employee, the recalculated life expectancy of the employee (or the employee's spouse) will be reduced to zero in the calendar year following the calendar year of death. In any calendar year in which the last applicable life expectancy is reduced to zero, the plan must distribute the employee's entire remaining interest prior to the last day of such year in order to satisfy section 401(a)(9).

Section 1.401(a)(9)-1 of the Proposed Regulations, Q.&A. E-8(b), provides guidance on calculating the applicable life expectancy when the employee's life expectancy is being recalculated and the life expectancy of his designated beneficiary is not recalculated. It provides in relevant part that if the designated beneficiary is not the employee's spouse and the life expectancy of the employee is being recalculated annually, the applicable life expectancy for determining the minimum distribution for each distribution calendar year will be determined by recalculating the employee's life expectancy but not recalculating the beneficiary's life expectancy. Such applicable life expectancy is the joint and last survivor expectancy using the employee's attained age as of the employee's birthday in the distribution calendar year and an adjusted age of the designated beneficiary. The attained age of the designated beneficiary is determined as follows: First, the beneficiary's applicable life expectancy is calculated based on the beneficiary's attained age as of the beneficiary's birthday in the calendar year described in E-1, reduced by one for each calendar year which has elapsed since that calendar year. The age (rounded if necessary to the higher age) in Table V of section 1.72-9 is then located which corresponds to the designated beneficiary. As provided in paragraph (a), upon the death of the employee, the life expectancy of the employee is reduced to zero in the calendar year following the calendar year of the employee's death. Thus, for determining the minimum distribution for such calendar year and subsequent calendar years, the applicable life expectancy is the applicable life expectancy of the designated beneficiary determined under this paragraph.

Section 1.401(a)(9)-1 of the Proposed Regulations, Q.&A. E-1(a), provides, generally, that for required distributions under Code section 401(a)(9)(A), life expectancies are calculated using the employee's (and designated beneficiary's) attained age as of the employee's birthday (and the designated beneficiary's birthday) in the calendar year in which the employee attains age 70½.

Taxpayer B was the beneficiary of IRA W. In 1992, she converted IRA W to IRA X of which she was now the owner. Also in 1992, she named Taxpayer C as beneficiary of IRA X. For purposes of calculating required minimum distributions under Code section 401(a)(9), Taxpayer B did not have an account balance in IRA X until December 31, 1992. Thus Taxpayer B's required beginning date was December 31, 1993.

In this case, because Taxpayer B's life expectancy was being recalculated upon her death, in accordance with Q.&E. E-8(a) of section 1.401(a)(9)-1 of the Proposed Regulations her life expectancy was reduced to zero. Although her benefit was paid in the form of a single life expectancy upon her death, her life expectancy was not the last applicable life expectancy because she timely designated her beneficiary by her required beginning date in accordance with Q.&A. D-3(a) of the Proposed Regulations. Therefore, pursuant to Q.&A. E-8(b) of section 401(a)(9)-1 of the Proposed Regulations, for purposes of determining the minimum distribution in the calendar year after the death of Taxpayer B, the applicable life expectancy is the life expectancy of the designated beneficiary as determined under that section.

Therefore, Taxpayer B's use of the single recalculated life expectancy in determining the required minimum distributions during her lifetime does not preclude the use of the term-certain life expectancy of the designated beneficiary in the calendar year after Taxpayer B's death and subsequent calendar years.

Taxpayer C's applicable life expectancy is calculated based on his attained age as of his birthday in the calendar year in which Taxpayer B was required to initiate distributions from her IRA X (1993), reduced by one for each calendar year which has elapsed since that calendar year. Under Table V of 1.72-9 of the Proposed Regulations, Taxpayer C's single life expectancy in 1993 was 36.8 years. Therefore, as of the calendar year 1999, the remaining term-certain period with respect to Taxpayer C was 30.8 years. Pursuant to Q.&A. E-8(b), this period is reduced by one for each calendar year subsequent to 1999. Accordingly, with respect to the ruling request, we conclude that Taxpayer C may use his remaining term-certain life expectancy in determining the required minimum distribution after Taxpayer B's death, since he is the designated beneficiary, commencing in the calendar year 2000 and reduced by one for each calendar year thereafter.

This letter assumes that IRAs W, X, and Y either were qualified under either section 408(a) or 408(b), and will be qualified under section 408(b), at all times relevant thereto.

This ruling is directed only to the taxpayer who requested it. Code section 6110(k)(3) 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 the power of attorney on file in this office.

Sincerely yours,

John Swiecz

Manager, Employee Plans
Technical Branch 1
Tax Exempt and Government
Entities Division

Enclosures:
Deleted copy of letter
Notice of Intention to Disclose

cc:

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