Internal Revenue Service

Department of the Treasury

Washington, DC 20224 200106046

UIC: 401.06-00
401.06-02

Contact Person:

Telephone Number:

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

Date:

NOV 17 2000

LEGEND:

Taxpayer A:

Taxpayer B:

Date 1:

Date 2:

Date 3:

Date 4:

IRA 1:

IRA 2:

IRA 3:

IRA 4:

Dear :

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

Taxpayer A, whose date of birth was Date 1, died on Date 2, 2000 having attained age 70 1/2. Taxpayer A's "required beginning date," as that term is used in Code section 401(a)(9)(C), was April 1, 1993.

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

Taxpayer A, whose date of birth was Date 1, died on Date 2, 2000, a resident of State Z, having attained age 70 1/2. Taxpayer A's "required beginning date," as that term is used in Code section 401(a)(9)(C), was April 1, 1993.

At his death, Taxpayer A maintained three (3) individual retirement arrangements (IRAs), IRAs 1, 2, and 4, in his name. IRA 4 holds amounts transferred by Taxpayer A from IRA 3. Prior to his Code section 401(a)(9) required beginning date, Taxpayer A had named Taxpayer B, his son, as the beneficiary of his IRA 2.

With respect to his IRA 2, prior to his "required beginning date", as that term is defined in Code section 401(a)(9)(C), Taxpayer A changed his beneficiary designation to read Trust X as the beneficiary thereof. Furthermore, prior to his "required beginning date", Taxpayer A provided a copy of Trust X to Company Y, the custodian of his IRA 2.

Taxpayer B's date of birth was Date 3, 1983.

Trust X provides, in relevant part, that it is irrevocable and that Taxpayer A relinquished the power to alter, amend, revoke or terminate it. Additionally, Taxpayer B was named the beneficiary of Trust X.

Trust X provides, in relevant part, that it is funded solely by IRA 2. Additionally, Trust X provides that distributions to it from IRA 2 are to be made over the joint life expectancies of Taxpayers A and B. Furthermore, Trust X also provides that, after the death of Taxpayer A, Taxpayer B is to receive all of the amounts distributed to Trust X from IRA 2.

Your authorized representative has asserted on your behalf that Trust X is valid under the laws of State Z.

Taxpayer A elected to receive distributions from his IRA 2 over the joint life expectancies of Taxpayer A and Taxpayer B. With respect to said IRA 2, Taxpayer A had elected the "term certain method of computing his minimum required distributions. In other words, Taxpayer A had elected to not recalculate his life expectancy. Taxpayer B's life expectancy was not eligible for recalculation.

During his life, Code section 401(a)(9) minimum required distributions from IRA 2 were made in accordance with the minimum distribution incidental benefit (MDIB) rule. Taxpayer A had not received his calendar year 2000 required distributions from his IRA 2 prior to his death during said calendar year.

For calendar years subsequent to calendar year 2000, Taxpayer C, the trustee of Trust X, intends to receive minimum distributions required under

Code section 401(a)(9) from IRA 2 over the remaining joint life expectancy of Taxpayers A and B.

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

1. That Taxpayer A timely designated Taxpayer B as the beneficiary of his IRA 2;

2. that Taxpayer A elected not to have his life expectancy recalculated for purposes of determining Code section 401(a)(9) required distributions from his IRA 2;

3. that, with respect to determining minimum required distributions for calendar year 2000 from IRA 2, Trust X and Taxpayer B, as the beneficiary thereof, must calculate said required distributions in accordance with the MDIB requirements; and

4. with respect to IRA 2, for purposes of determining Code section 401(a)(9) required distributions for calendar years beginning with 2001, Trust X and Taxpayer B, as the beneficiary thereof, may use the remaining joint life expectancy of Taxpayers A and B, the designated beneficiary thereof, reduced by one 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 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 ½.

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 401(a)(9)-1 of the Proposed Income Tax Regulations, Question and Answer 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 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 life 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 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 (or joint and last survivor 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-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 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)-1 of the proposed regulations, Q&A D-2A, provides that only individuals may be designated beneficiaries for purposes of section 401(a)(9). A person who is not an individual, such as the employee's estate,

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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 if 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 documentation described in D-7 of this section has been provided to the plan administrator.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A D-6, provides that in the case in which a trust is named as the beneficiary of an employee, all beneficiaries of the trust with respect to the trust's interest in the employee's benefit are treated as designated beneficiaries of the employee under the plan for purposes of determining the distribution period under section 401(a)(9)(B)(iii) and (iv) if the requirements in paragraph (a) of D-5 (above) are satisfied as of the date of the employee's death, or, in the case of the documentation described in D-7 of this section, by the end of the ninth month beginning after the employee's death.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A D-7 provides, in general, that the plan administrator be provided with either a list of all trust beneficiaries as of the date of death or with a copy of the trust document for the trust which is named as beneficiary of the plan as of the employee's date of death. In general, with respect to required distributions which commence after death, the necessary documentation must be furnished no later than the end of the ninth month beginning after the death of the employee (IRA holder).

Section 1.401(a)(9)-2 of the proposed regulations, Qs&As 1 through 7, sets down the minimum distribution incidental benefit (MDIB) requirements applicable to qualified retirement plans and IRAs. Section 1.401(a)(9)-2 of the proposed regulations, Q&A-3, provides, in relevant part, that the MDIB requirements do not apply to distributions after an employee's death.

In this case, Taxpayer A, prior to his Code section 401(a)(9) required beginning date, named his trust, Trust X, as the beneficiary of his IRA 2. As noted above, Trust X is irrevocable and is valid under the laws of State Z, the state of Taxpayer A's domicile. Taxpayer B is the beneficiary of Trust X and is entitled to all amounts distributed from IRA 2 to Trust X which distributions are to be computed using the joint life expectancies of Taxpayers A and B. During Taxpayer A's life, distributions from IRA 2 were computed using the joint life expectancies of Taxpayers A and B, as modified

by the MDIB requirements. A copy of Trust X was provided to Company Y, the custodian of IRA 2.

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

1. That Taxpayer A timely designated Taxpayer B as the beneficiary of his IRA 2;

2. that Taxpayer A elected not to have his life expectancy recalculated for purposes of determining Code section 401(a)(9) required distributions from his IRA 2;

3. that, with respect to determining minimum required distributions for calendar year 2000 from IRA 2, Trust X and Taxpayer B, as the beneficiary thereof, must calculate said required distributions in accordance with the MDIB requirements found at section 1.401(a)(9)-2 of the proposed regulations; and

4. that with respect to IRA 2, for purposes of determining Code section 401(a)(9) required distributions for calendar years beginning with 2001, Trust X and Taxpayer B, as the beneficiary thereof, may use the remaining joint life expectancy of Taxpayers A and B, the designated beneficiary thereof, reduced by one for each subsequent calendar year.

This ruling letter assumes that Taxpayer A's IRA 2 either has met or will meet the requirements of Code section 408(a) at all times relevant thereto.

This ruling is directed solely to the taxpayer who 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