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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Contact Person:

Telephone Number:

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

Date:

APR - 4 2001

LEGEND:

Taxpayer A:

Taxpayer B:

Taxpayer C:

Taxpayer D:

Date 1:

Date 2:

Date 3:

Date 4:

Date 5:

IRA X:

Company M:

Dear :

This is in response to your letter dated , as supplemented by correspondence dated , in which you request a letter ruling under section 401(a)(9) of the 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, 2000, having passed her "required beginning date" as that term is defined in Code section 401(a)(9)(C). At her death, Taxpayer A maintained IRA X with Company M. On Date 4, which was prior to her Code section 401(a)(9)(C) required beginning date, Taxpayer A named Taxpayers B, C, and D, her children, as equal beneficiaries of her IRA X. Taxpayer B, whose date of birth was Date 3, is the eldest of Taxpayers B, C, and D. Taxpayer A did not change her beneficiary designation prior to her death.

Although Taxpayer A had named beneficiaries of her IRA X, during her lifetime, she was receiving distributions from her IRA X based on

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a single, recalculated, life expectancy. On Date 5, 2000, IRA X was divided, by means of trustee-to-trustee transfers, into three IRAs. Taxpayer B is the beneficiary of one of said IRAs; Taxpayer C is the beneficiary of a second of said IRAs; and Taxpayer D is the beneficiary of the third IRA.

You, Taxpayer B, propose to receive distributions from the IRA presently maintained to make distributions to you as beneficiary thereof (IRA Y) over the life expectancy of Taxpayer B, the eldest of Taxpayers B, C, and D.

Based on the above facts and representations, you request the following letter rulings:

1. That the life expectancies of Taxpayers B, C, and D may be considered for purposes of determining the designated beneficiary of the IRA maintained to make distributions to Taxpayer B as beneficiary thereof (IRA Y)

2. that the eldest of Taxpayers B, C and D may be treated as the designated beneficiary of IRA Y;

3. that, with respect to IRA Y, referenced above, for purposes of determining Code section 401(a)(9) required distributions for calendar year 2001, Taxpayer B may use the remaining life expectancy of Taxpayer B, the eldest of Taxpayers B, C and D; and

4. that, with respect to IRA Y, Taxpayer A's use of her single life expectancy, recalculated, in determining required distributions for calendar years during her lifetime, including 2000, does not preclude the use of the remaining life expectancy of the eldest of Taxpayers B, C and D to determine required distributions for calendar year 2001.

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, for purposes of this letter ruling, 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 E-5(a), provides, in general, that if more than one individual is designated as a beneficiary with respect to an employee (IRA holder) 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 Code section 401(a)(9) distribution period.

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.

In this case, Taxpayer A, prior to her Code section 401(a)(9) required beginning date, named her children, Taxpayers B, C and D as the beneficiaries of her IRA, IRA X. Taxpayer A did not change her beneficiary designations prior to her death, and Taxpayer B is older than either Taxpayer C or Taxpayer D.

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

1. That the life expectancies of Taxpayers B, C, and D may be considered for purposes of determining the designated beneficiary of IRA Y; and

2. that the eldest of Taxpayers B, C and D may be treated as the designated beneficiary of IRA Y.

With respect to your third ruling request, the issue presented is whether post death distributions from IRA Y 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 recalculated single 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 her beneficiary for purposes of Code section 401(a)(9). Thus, Taxpayer A could have received distributions from IRA X over her and Taxpayer B's joint life expectancy subject to the minimum distribution incidental benefit requirement. Such distributions would have complied with the minimum required distribution rules. Instead,

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Taxpayer A chose to receive distributions over her recalculated single life expectancy. In effect, Taxpayer A received distributions in amounts greater than the required minimums, or, in other words, chose to accelerate receipt of lifetime distributions.

Taxpayer A's election to accelerate distributions does not affect the determination, above, that Taxpayer A's timely designating Taxpayer B as her 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, said life expectancy may be used to determine post-death required distributions to Taxpayer A's beneficiaries. 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 her required lifetime distributions.

In this case, as noted above, Taxpayer A's life expectancy was being recalculated. Thus, as of the end of 2001, the calendar year following the calendar year of her death, Taxpayer A's life expectancy will be reduced to "0". Therefore, required distributions to Taxpayer A's beneficiaries will be those computed using the life expectancy of Taxpayer B, her designated beneficiary.

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

3. that, with respect to IRA Y, referenced above, for purposes of determining Code section 401(a)(9) required distributions for calendar year 2001, Taxpayer B may use the remaining life expectancy of Taxpayer B, the eldest of Taxpayers B, C and D; and

4. that, with respect to IRA Y, Taxpayer A's use of her single life expectancy, recalculated, in determining required distributions for calendar years during her lifetime, including 2000, does not preclude the use of the remaining life expectancy of the eldest of Taxpayers B, C and D to determine required distributions for calendar year 2001.

This ruling letter assumes that Taxpayer A's IRA X and IRA Y, the IRA presently maintained to make distributions to Taxpayer B, the beneficiary thereof, have met and will continue to meet the requirements of Code section 408(a) at all times relevant thereto. Additionally, it assumes that Taxpayer B's receiving distributions from her transferee IRA, IRA Y, over her remaining life expectancy will comply with the language of the transferee IRA.

With respect to calendar year 2001, this ruling letter does not consider the changes to sections 1.401(a)(9)-1 and 1.408-8 of the proposed regulations found at 2001-11 I.R.B. 865 (March 12, 2001).

Furthermore, this ruling letter does not address the issue as to whom, if anyone, is the designated beneficiary with respect to calendar years beginning after December 31, 2001 since this ruling letter cannot assume that Taxpayer B will be alive after December 31, 2001.

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.

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