DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

200204048

OCT 31 2001

T:EP:RA:T3

UICs: 408.00-00
408.02-01

LEGEND:

Taxpayer A:

Taxpayer B:

IRA X:

IRA Y:

IRA Z:

Date 1:

Date 2:

Date 3:

Date 4:

Sum 1:

Company M:

Company N:

Dear

This is in response to the , request for letter ruling submitted on your behalf by your authorized representative, as supplemented by correspondence dated

, in which you, through your authorized representative request a series of letter rulings relating to the transaction described below. The following facts and representations support your ruling request.

Taxpayer A, whose date of birth was Date 1, 1936, died on Date 2, 2000. As of the date of her death, Taxpayer A maintained IRA X with Company M. Taxpayer B, Taxpayer A's son, was the named beneficiary of IRA X. The date of death value of IRA X was Sum 1.

On Date 3, 2000, Taxpayer B transferred a portion of the Sum 1 value in IRA X to IRA Y, an individual retirement arrangement maintained with Company N. Documentation submitted with your ruling requests indicates that IRA Y was designated a "Beneficiary IRA to be maintained for the benefit of Taxpayer B".

On Date 4, 2001, Taxpayer B transferred the remaining portion of the Sum 1 value in IRA X to IRA Z, an individual retirement arrangement maintained with Company M. Your authorized representative has asserted on your behalf that Company M has advised Taxpayer B that IRA Z will be maintained as an IRA in the name of Taxpayer A for the benefit of Taxpayer B in accordance with the guidance referenced below.

Company M and Company N have assured Taxpayer B that they either have, or will take, all necessary steps to insure that the transactions described above do not result in their being treated as taxable distributions to Taxpayer B. With that regard, Companies M and N either have insured or will insure that Form 1099s are not issued which treat the transactions as taxable distributions.

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

1. That the transactions described above, through which Sum 1 was transferred from IRA X to IRAs Y and Z constitute transfers, as that term is used in Revenue Ruling 78-406;

2. that the transactions, described above, did not constitute taxable distributions when they occurred;

3. that the first transaction, described above, resulted in IRA Y retaining its status as an IRA maintained in the name of Taxpayer A for the benefit of Taxpayer B; and

4. that the second transaction, described above, resulted in IRA Z retaining its status as an IRA maintained in the name of Taxpayer A for the benefit of Taxpayer B.

With respect to your ruling requests, Code section 408(d)(1) provides, in general, that, except as otherwise provided in Code section 408(d), amounts distributed from an IRA are taxed to the distributee in accordance with the rules provided under section 72.

Code section 408(d)(3)(B) provides, in general, that paragraph 408(d)(3), which governs rollover contributions of distributions made from IRAs, does not apply to any amount described in subparagraph (A) (IRA distributions) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from an IRA that was not includible in his gross income because of the application of paragraph 408(d)(3).

Code section 408(d)(3)(C) provides, in general, that the rollover rules of Code section 408(d)(3) shall not apply to inherited IRAs. Code section 408(d)(3)(C)(ii) provides that an inherited IRA is an IRA acquired by an individual other than a surviving spouse by reason of the death of another individual (IRA owner).

Revenue Ruling 78-406, 1978-2 C.B. 157, provides, in general, that the direct transfer of funds from one IRA trustee to another IRA trustee does not result in such funds being treated as paid or distributed to the participant and such transfer is not a rollover contribution. The revenue ruling states that this conclusion would apply whether the bank trustee initiates or the IRA participant directs the transfer of funds.

Rev. Rul. 78-406 is applicable if the trustee to trustee transfer is directed by the beneficiary of an IRA after the death of the IRA owner as long as the transferee IRA is set up and maintained in the name of the deceased IRA owner for the benefit of the beneficiary.

Revenue Procedure 89-52, 1989-2 C.B. 632, provides guidance with respect to IRAs maintained for the benefit of non-spouse beneficiaries of deceased IRA holders.

As noted above, Taxpayer B, the named beneficiary of Taxpayer A's IRA X, transferred, by means of trustee-to-trustee transfers, his 50% interest in Taxpayer A's IRA X to other IRAs set up and maintained in the name of Taxpayer A for the benefit of Taxpayer B. The Service believes that said transfers were in accordance with the guidelines found in Rev. Rul. 78-406, and complied with the requirements of Rev. Proc. 89-52. Additionally, since Taxpayer B's actions were in compliance with the requirements of Rev. Rul. 78-406, they did not constitute distributions as that term is

defined in Code section 408(d)(1). Thus, the limitations described in Code sections 408(d)(3)(B) and (C) do not affect Taxpayer B's actions.

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

1. That the transactions described above, through which Sum 1 was transferred from IRA X to IRAs Y and Z constitute transfers, as that term is used in Revenue Ruling 78-406;

2. that the transactions, described above, did not constitute taxable distributions when they occurred;

3. that the first transaction, described above, resulted in IRA Y retaining its status as an IRA maintained in the name of Taxpayer A for the benefit of Taxpayer B; and

4. that the second transaction, described above, resulted in IRA Z retaining its status as an IRA maintained in the name of Taxpayer A for the benefit of Taxpayer B.

This ruling letter assumes that IRA X has met the requirements of Code section 408 at all times relevant thereto. It also assumes that the transferee IRAs which were set up and maintained in the name of Taxpayer A for the benefit of Taxpayer B either has or will also meet the requirements of Code section 408.

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.

This letter ruling is authorized by of this Group who can be reached at

200204048

Pursuant to a power of attorney on file in this office, the original 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