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

200221048

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

OCT 3 1 2001

UICs: 401.06-00
401.06-02
408.03-00

T:EP:RA:T3

Legend:

Taxpayer A:

Taxpayer B:

Taxpayer C:

Date 1:

Date 2:

Date 3:

Date 4:

IRA X:

Company M:

Company N:

Dear

This is in response to the , letter submitted by your authorized representative on your behalf in which you, through said representative, request a series of letter rulings 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, 1917, died on Date 2, 2000 at age 83. At the time of her death, Taxpayer A owned IRA X, an individual retirement arrangement (IRA) set up and maintained in her name, with Company M. By means of a beneficiary designation dated Date 3, 1999, Taxpayer A named Taxpayers B and C, her

daughter and granddaughter, respectively, as equal beneficiaries of her IRA X. Taxpayer B is older than Taxpayer C. Your representative has asserted that Taxpayer C's interest in IRA X has either been withdrawn or transferred to another IRA, and is not the subject matter of this ruling request.

Taxpayer B proposes to transfer, by means of a trustee to trustee transfer, her interest in IRA X to another IRA set up and maintained with Company N. The transferee IRA will be titled "Taxpayer A (Deceased) IRA F/B/O/ Taxpayer B, Beneficiary".

Taxpayer B's date of birth was Date 4, 1941. Thus, she attained age 60 during calendar year 2001.

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

1. That Taxpayer B is a Designated Beneficiary of Taxpayer A's IRA X;

2. That Taxpayer B may receive Code section 401(a)(9) required distributions from the transferee IRA, referenced above, over her life expectancy using Table V of section 1.72-9 of the Income Tax Regulations. Furthermore, pursuant to Table V, Taxpayer B's life expectancy with respect to calendar year 2001 is 24.2; and

3. That the transfer of Taxpayer B's interest in Taxpayer A's IRA X to the transferee IRA, referenced above, will not constitute a taxable distribution to her within the meaning of Code section 408(d)(1), and will not constitute a rollover as that term is used is Code section 408(d)(3).

With respect to your ruling requests, in general, Code section 401(a)(9)(A)(ii) provides, in general, that distributions from a retirement plan qualified within the meaning of Code section 401(a) must be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life (or life expectancy) of the plan participant, or over the lives of the participant and a designated beneficiary (or over a period not extending beyond the life expectancy of the plan participant and a designated beneficiary).

In general, the required distribution rules found in Code section 401(a)(9) and the Proposed Regulations, promulgated thereunder, are made applicable to IRAs pursuant to Code section 408(a)(6).

Code section 401(a)(9)(C)(ii) provides, with respect to IRAs, that distributions must commence no later than April 1 of the calendar year following the calendar year in which the IRA holder attains age 70 ½..

Code section 401(a)(9)(B) provides, in summary, that where distributions have begun in accordance with Code section 401(a)(9)(A)(ii), distributions made after the death of the plan participant or IRA owner must be distributed as 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)-4 of the Proposed Income Tax Regulations published in the March 12, 2001 Internal Revenue Bulletin at 2001-1 I.R.B. 865 ("New" Regulations), Question and Answer-1, provides, in general, that a designated beneficiary is an individual designated as a beneficiary under the plan, or if the plan so provides, by an affirmative election by the employee (IRA owner) specifying the beneficiary. A designated beneficiary is an individual entitled to receive a portion of the employee's (IRA owner's) benefit contingent on the employee's death or other specified event.

Section 1.401(a)(9)-4 of the "New" proposed regulations, Q&A-4, provides, in general, that except as provided in paragraph (b) and section 1.401(a)(9)-6 (not pertinent in this case), the employee's designated beneficiary will be determined based on the beneficiaries designated as of the last calendar day of the calendar year following the calendar year of the employee's death.

Section 1.401(a)(9)-5 of the "New" proposed regulations, Q&A-5(a), provides, in general, that if an employee dies on or after distributions have begun under A-6 of section 1.401(a)(9)-2 (generally, after the employee's required beginning date), in order to satisfy Code section 401(a)(9)(B)(i), the applicable distribution period for distribution calendar years after the distribution calendar year containing the employee's date of death is (1) if the employee has a designated beneficiary as of the date determined under A-4 of section 1.401(a)(9)-4, the remaining life expectancy of the employee's designated beneficiary determined in accordance with paragraph (c)(1) or (2) of this A-5.

Section 1.401(a)(9)-5 of the "New" proposed regulations, Q&A-5(c)(1) provides, in general, that with respect to a nonspouse designated beneficiary, the applicable distribution period measured by the beneficiary's remaining life expectancy is determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the employee's death. In subsequent calendar years, reduce the applicable distribution period by one for each calendar year that has elapsed since in the calendar year immediately following the calendar year of the employee's death.

Section 1.401(a)(9)-5 of the "New" proposed regulations, Q&A-6 provides, in short, that Tables V and VI of section 1.72-9 of the regulations are used to determine life expectancies for purposes of computing required distributions.

With respect to IRAs, the above-referenced "New" proposed regulations are proposed to be effective for distributions for calendar years beginning on or after January 1, 2002. However, for distributions for the 2001 calendar year, IRA owners are permitted, but not required, to follow these proposed regulations in operation, notwithstanding the terms of the IRA documents.

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)(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.

With respect to your ruling requests, Taxpayer A designated Taxpayer B as the beneficiary of 50% of her IRA X prior to her calendar year 2000 death, and Taxpayer C as the beneficiary of the remaining 50%. As noted above, Taxpayer B is older than Taxpayer C. As of the date of this ruling request, Taxpayer B is still alive.

As noted above, Taxpayer A had not named Taxpayer B as a beneficiary of her IRA X as of her "required beginning date" as that term is defined in Code section 401(a)(9)(C)(ii). However, Taxpayer A did so prior to her death.

Under the "New" proposed regulations, with respect to distributions made with respect to calendar year 2001, the beneficiary of an IRA may receive distributions in accordance with the terms of the "New" regulations. Thus, Taxpayer B may receive distributions with respect to said calendar year, and subsequent calendar years, as a beneficiary over her life expectancy as long as she is alive as of December 31, 2001. As noted above, as of the date of this ruling request, Taxpayer B is still alive.

Pursuant to the "New" proposed regulations, Taxpayer B's calendar year 2001 minimum required distribution will be computed based on her life expectancy as determined using Table V of section 1.72-9 of the regulations. The life expectancy of a 60-year old individual under Table V is 24.2 years.

As noted above, Taxpayer B proposes to transfer, by means of a trustee-to-trustee transfer, her 50% interest in Taxpayer A's IRA X to another IRA set up and maintained in the name of Taxpayer A for the benefit of Taxpayer B. Said transfer will be in accordance with the guidelines found in Rev. Rul. 78-406, and will comply with the requirements of Rev. Proc. 89-52.

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

1. That Taxpayer B is a Designated Beneficiary of Taxpayer A's IRA X;

2. That, as long as she is alive on December 31, 2001, Taxpayer B may receive Code section 401(a)(9) required distributions from the transferee IRA, referenced above, over her life expectancy using Table V of section 1.72-9 of the Income Tax Regulations. Furthermore, pursuant to Table V, Taxpayer B's life expectancy with respect to calendar year 2001 is 24.2; and

3. That the transfer of Taxpayer B's interest in Taxpayer A's IRA X to the transferee IRA, referenced above, will not constitute a taxable distribution to her within the meaning of Code section 408(d)(1), and will not constitute a rollover as that term is used is Code section 408(d)(3).

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

200221048

This ruling letter was prepared by of this Group. His ID Number is: 50-03192.

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
Manager,
Employee Plans
Technical Group 3
Tax Exempt and Government
Entities Division

Enclosures:

Deleted copy of letter ruling
Form 437