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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

SEP 19 2002

UIL No: 408.00-00

T:EP:RA:T:5

LEGEND:
Taxpayer A =
Spouse B =
IRA X =
IRA Y =
Custodian C =
Custodian D =
State G =

Dear :

This letter is in response to your ruling request dated November 1, 2000, as supplemented by your letter of August 30, 2002, regarding a change in the applicable life expectancy for purposes of determining your required minimum distribution from IRA Y.

In 1991, Taxpayer A designated Spouse B as the sole beneficiary under IRA X. However, Taxpayer A was not married to Spouse B in 1991. Since Spouse B was a non-spouse beneficiary of Taxpayer A in 1991, the applicable divisor under the minimum distribution incidental benefit requirement of Proposed Treasury Regulation section 1.401(a)(9)-2 was used to determine the applicable life expectancy instead of the applicable joint life expectancies in Treasury Regulation section 1.72-9.

On December 13, 1994, Taxpayer A and Spouse B were married in State G and have provided the Internal Revenue Service with a marriage certificate to such effect. The applicable divisor under the minimum distribution incidental benefit requirement of Proposed Treasury Regulation section 1.401(a)(9)-2 continues to be used to determine the payout period with respect to Taxpayer A under IRA X.

In calendar year 2000, Taxpayer A transferred his IRA account from IRA X to IRA Y and changed his IRA custodian from Custodian C to Custodian D. Taxpayer B was, and remains, the sole beneficiary of Taxpayer A's IRA Y.

Based on the foregoing facts and representations, you request a ruling that, effective for the 2002 calendar year, you may change the life expectancy for purposes of determining your minimum distribution to the applicable joint life expectancies of yourself and Spouse B as set forth in Treasury Regulation section 1.401(a)(9)-9.

Section 408(a) of the Internal Revenue Code provides that the term "individual retirement account" (IRA) means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries.

Code section 408(a)(6) provides that an IRA's written governing instrument creating the trust must have rules similar to the rules of section 401(a)(9) and the incidental death benefit requirements of section 401(a) that are applicable to the distribution of the entire interest of an individual for whose benefit the trust is maintained.

Section 401(a)(9) of the Code provides that the entire interest of the participant—(i) will be distributed to the participant not later than the required beginning date, or (ii) will be distributed not later than the required beginning date over the life of such participant or over the lives of the participant and a designated beneficiary (or over a period not extending beyond the life expectancy of such participant of the life expectancy of the participant and a designated beneficiary).

Treasury Regulation section 1.401(a)(9)-5, Q/A-1(a), provides that if an employee's accrued benefit is in the form of an individual account, the minimum amount required to be distributed for each distribution calendar year is equal to the quotient obtained by dividing the account by the applicable distribution period.

Treasury Regulation section 1.401(a)(9)-5, Q/A-4(a) provides that, except as provided in paragraph (b) of this A-4, the applicable distribution period for required minimum distributions for distribution calendar years up to and including the distribution calendar year that includes the employee's date of death is determined using the Uniform Lifetime Table in section A-2 of 1.401(a)(9)-9 for the employee's age as of the employee's birthday in the relevant distribution calendar year.

Treasury Regulation section 1.401(a)(9)-5, Q/A-4(b) provides that if the sole designated beneficiary of an employee is the employee's surviving spouse, for required minimum distributions during the employee's lifetime, the applicable distribution period is the longer of the distribution period determined in accordance with paragraph (a) of this A-4 or the joint life expectancy of the employee and spouse using the employee's and spouse's attained ages as of the employee's and the spouse's birthdays in the distribution calendar year. The spouse is sole designated beneficiary for purposes of determining the applicable distribution period for a distribution calendar year during the employee's lifetime

only if the spouse is the sole beneficiary of the employee's entire interest at all times during the distribution calendar year. The Joint and Last Survivor Table is found at section 1.401(a)(9)-9 of the Regulations at Q/A-3.

Treasury Regulation section 1.401(a)(9)-8, Q/A-5 provides that, except as otherwise provided in A-6(a) of this section (in the case of distributions of a portion of an employee's benefit payable to a former spouse of an employee pursuant to a qualified domestic relations order), for purposes of section 401(a)(9), an individual is a spouse or surviving spouse of an employee if such individual is treated as the employee's spouse under applicable state law.

The section entitled " "Calculation Simplification" to the Preamble to the Treasury Regulations for Required Distributions from Retirement Plans issued on April 17, 2002 (67 Federal Register 18988) provides that for lifetime distributions, the marital status of the employee is determined on January 1 each year.

Taxpayer A and Spouse B were married in State G in 1994 and have represented to us that they continued to be married on January 1, 2002. Spouse B is the sole beneficiary of IRA Y.

Accordingly, we rule that the applicable distribution period for purposes of determining the required minimum distribution from IRA Y for Taxpayer A in calendar year 2002 is the joint life expectancy of Taxpayer A and Spouse B using Taxpayer A's and Spouse B's attained ages as of their respective birthdays in the 2002 distribution calendar year which life expectancy may be found in section 1.401(a)(9)-9 of the Regulations at Q/A-3. Said Joint and Last Survivor Table may continue to be used by Taxpayer A as long as Taxpayers A and B remain married in accordance with the requirements of the Regulations under Code section 401(a)(9).

This ruling letter assumes that Taxpayer A's IRAs X and Y have met the requirements of Code section 408(a) at all times relevant thereto.

This ruling is directed solely to the taxpayer that 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 was written by e of this Group 4 who can be reached at

Sincerely,

Alan Pipkin, Manager
Employee Plans, Technical Group 4

Enclosures:

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Form 437