Internal Revenue Service

UIC:
401.06-00
401.06-02

Department of the Treasury
Washington, DC 20224

200052043

Contact Person:

Telephone Number:

In Reference to:

Date: T:EP:RA:T3

OCT 3 2000

LEGEND:

Taxpayer A:

Taxpayer B:

Taxpayer C:

Taxpayer D:

Date 1:

Date 2:

Date 3:

IRA X:

Company M:

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 seek a 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, 1926, died on Date 2, 1999. Taxpayer A was the owner of IRA X, maintained with Company M, as of her date of death.

On or about Date 3, 1991, Taxpayer A named her children, Taxpayers B, C, and D, as the beneficiaries of her IRA X. Each of the three beneficiaries was to receive an equal share of Taxpayer A's IRA X.

269

Taxpayer A received distributions from her IRA X which were intended to meet the minimum required distribution requirements through calendar year 1999. With respect to said required distributions, Taxpayer A's life expectancy was being recalculated. IRA X remains in existence.

Taxpayer C and Taxpayer D each intend to transfer, by means of trustee-to-trustee transfers, his share of Taxpayer A's IRA X into an individual retirement arrangement (IRA) set up and maintained in the name of Taxpayer A. Taxpayer C will be the sole beneficiary of one of the transferee IRAs, and Taxpayer D will be the sole beneficiary of the second transferee IRA. The transfers will be accomplished no later than December 31, 2000. The share of Taxpayer C and the share of Taxpayer D will each be allocated gains, losses, and expenses of IRA X computed beginning with Taxpayer A's date of death and ending with the actual date(s) of transfer. As a result of the transfers, Taxpayer B will become the sole beneficiary of IRA X.

Beginning with calendar year 2000, Taxpayer C will receive distributions from the IRA set up in the name of Taxpayer A and maintained for his benefit which distributions will be based on his remaining life expectancy.

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

> That Taxpayer C will comply with the requirements of Code section 401(a)(9) (made applicable to IRAs pursuant to Code section 408(a)(6)) as long as he receives distributions of the account balance in the IRA to be set up for his benefit, after the trustee-to-trustee transfers referenced above, beginning no later than December 31, 2000, over a period of time not longer than his remaining life expectancy.

With respect to your ruling request, 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.

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, Qs&As E-3 and E-4, provide that life expectancies for purposes of determining required distributions under section 401(a)(9) must be computed by used of the expected return multiples in Tables V and VI of section 1.72-9.

Code section 401(a)(9)(D) provides, in general, that the life expectancy of a plan participant (or IRA holder) and his spouse may be recalculated but not more frequently than annually.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A E-6, provides, in general, that an employee's life expectancy and his spouse's life expectancy may be recalculated in accordance with Code section 401(a)(9)(D) but not more frequently than annually.

Code section 401(a)(9)(B)(i) provides, in general, that where distributions have begun under subparagraph (A)(ii), and the employee (IRA holder) dies before his entire interest has been distributed to him, then the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used under subparagraph (A)(ii) as of the date of death.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A B-5, provides, in pertinent part, that distributions are treated as having begun in accordance with section 401(a)(9)(A)(ii) on the employee's (IRA holder's) required beginning date even though distributions may actually have been made before that date.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A H-2, provides, in short, that, if separate accounts are maintained, such separate accounts need not be aggregated for purposes of determining whether distributions from one separate account satisfy the minimum required distributions rules of Code section 401(a)(9).

Section 1.401(a)(9)-1 of the proposed regulations, Q&A H-2A, provides, in short, that, for purposes of Code section 401(a)(9), a separate account in an individual account is a portion of an employee's benefit determined by an acceptable separate accounting including allocating investment gains and losses, and contributions and forfeitures, on a pro rata basis in a reasonable and consistent manner between such portion and any other amounts.

In this case, on Date 3, 1991, which was prior to her "required beginning date", as that term is defined in Code section 401(a)(9)(C), Taxpayer A named Taxpayers B, C, and D as the beneficiaries of her IRA X. Taxpayer A died during calendar year 1999 after receiving a calendar year 1999 IRA X distribution. Taxpayers B, C, and D intend to divide IRA X among themselves with each receiving an equal share thereof. Said equal shares will include a proportionate share of IRA X gains, losses, and expenses computed beginning with Taxpayer A's date of death.

Based on the above, the Service concludes with respect to your ruling request as follows:

> That Taxpayer C will comply with the requirements of Code section 401(a)(9) (made applicable to IRAs pursuant to Code section 408(a)(6)) as long as he receives distributions of the account balance in the IRA to be maintained on his behalf, after the trustee-to-trustee transfers referenced above, beginning no later than December 31, 2000, over a period of time not longer than his remaining life expectancy.

272

This ruling letter assumes that IRA X either has, 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. As such, it does not address the tax consequences, if any, of the transaction described herein to either Taxpayer B or Taxpayer D.

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