

**Internal Revenue Service**

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Person To Contact:

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Telephone Number:

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Date:

May 18, 2016

LEGEND:

Decedent =

Trust =

State =

Financial Institution A =

Financial Institution B =

Financial Institution C =

Financial Institution D =

Individual E =

Individual F =

Individual G =

Individual H =

Individual I =

IRA X =

Date 1 =

Date 2 =

Date 3 =

Dear :

This letter is in response to your request received on November 23, 2015, as supplemented by correspondence dated January 7, 2016, submitted by your authorized representative, in which you request rulings regarding the proper applicable distribution period under section 401(a)(9) of the Internal Revenue Code for payments from an IRA.

The following facts and representations have been submitted under penalties of perjury in support of the rulings requested:

Decedent died at age 59 on Date 1. Decedent maintained three IRAs, one each with Financial Institution A, Financial Institution B, and Financial Institution C. The sole named beneficiary of each of those IRAs was Trust.

Trust is a trust created under Decedent's will. Trust is irrevocable and is valid under the laws of State. Financial Institution D is the trustee of Trust. A copy of Decedent's will containing the terms of Trust was provided to Financial Institution D on or about Date 2.

On or about Date 3, after Decedent's death, Financial Institution D, as trustee of Trust, combined the three IRAs maintained with Financial Institution A, Financial Institution B, and Financial Institution C into IRA X, which is an inherited IRA for the benefit of Trust with Financial Institution D as custodian.

Individual E is the child of Decedent. Individual F and Individual G are the children of Individual E. Individual H and Individual I are the siblings of Decedent.

Under the terms of Trust, the trustee is to distribute all net income of Trust to Individual E. The trustee also has discretion to make distributions of principal to Individual E or Individual E's issue for health, education, support, or maintenance; Financial Institution D, as trustee, has made discretionary distributions to Individual E. Trust will terminate when Individual E attains fifty years of age, at which time the trustee will distribute the

remaining income and principal to Individual E. If Individual E dies prior to attaining age fifty, Trust will terminate and will be distributed to the children of Individual E. However, if a beneficiary is under age twenty-one at the time he or she becomes entitled to receive his or her share, the trustee retains possession of the share in trust until the beneficiary attains age twenty-one; if the beneficiary dies before attaining age twenty-one, the beneficiary's share is paid to the beneficiary's personal representatives.

If Individual E and all her issue are deceased at any time prior to final distribution of assets from Trust, the trustee shall distribute the remaining assets to Individual H and Individual I. If Individual E, all her issue, Individual H, and Individual I are deceased prior to final distribution of assets from Trust, the trustee shall distribute the remaining assets to various charitable organizations.

Since Decedent's death, Trust has taken distributions from IRA X that comply with the minimum distribution requirements that would apply if the applicable distribution period is based on Individual E's life expectancy.

Based on the foregoing, you request rulings that:

- 1) The beneficiaries of Trust (and not Trust itself) are treated as having been designated as beneficiaries of IRA X for purposes of determining the applicable distribution period under section 401(a)(9); and
- 2) The applicable distribution period for calculating the required minimum distributions from IRA X is based on Individual E's life expectancy.

With respect to your ruling requests, section 408(a)(6) provides, with respect to IRAs, 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 is maintained.

Treasury Regulation §1.408-8, Q&A-1(a) provides that an IRA is subject to the required minimum distribution rules provided in section 401(a)(9). In order to satisfy section 401(a)(9), the rules of §§1.401(a)(9)-1 through 1.401(a)(9)-9 must be applied, except as otherwise provided in that section.

Section 1.408-8, Q&A-1(b) provides that for purposes of applying the required minimum distribution rules in §§1.401(a)(9)-1 through 1.401(a)(9)-9, the IRA trustee, custodian or issuer is treated as the plan administrator, and the IRA owner is substituted for the employee.

Section 1.408-8, Q&A-3 provides that in the case of distributions from an IRA, the term "required beginning date" means April 1 of the calendar year following the calendar year in which the individual attains age 70 ½.

Section 401(a)(9)(A) provides that the entire interest of an employee (i) must be distributed to such employee not later than the required beginning date, or (ii) must 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 or the life expectancy of such employee and a designated beneficiary).

Section 401(a)(9)(B)(ii) provides that when an employee dies before distributions have begun under subparagraph (A)(ii), the entire portion of such interest will be distributed within 5 years after the death of such employee.

Section 401(a)(9)(B)(iii) provides an exception to section 401(a)(9)(B)(ii) under which if any portion of an employee's benefit is payable to a designated beneficiary, the portion will be distributed over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), provided such distributions begin no later than 1 year after the employee's death or such later date as the Secretary may prescribe by regulations.

Section 401(a)(9)(C)(i) provides that "required beginning date" means April 1 of the calendar year following the later of (I) the calendar year in which the employee turns age 70 ½, or (II) the calendar year in which the employee retires.

Section 401(a)(9)(E) provides that "designated beneficiary" means any individual designated as a beneficiary by the employee.

Section 1.401(a)(9)-4, Q&A-1 provides, in relevant part, that a designated beneficiary is an individual who is designated as a beneficiary under the plan. An individual may be designated as a beneficiary under the plan either by the terms of the plan or, if the plan so provides, by an affirmative election by the employee (or the employee's surviving spouse) specifying the beneficiary. A designated beneficiary need not be specified by name in the plan in order to be a designated beneficiary so long as the individual who is to be the beneficiary is identifiable under the plan. The member of a class of beneficiaries capable of contraction or expansion will be treated as being identifiable if it is possible to identify the class member with the shortest life expectancy. However, the passing of an employee's interest to an individual under a will or otherwise under applicable state law will not make that individual a designated beneficiary under section 401(a)(9)(E) unless that individual is designated as a beneficiary under the plan.

Section 1.401(a)(9)-4, Q&A-3 provides that only individuals may be designated beneficiaries for purposes of section 401(a)(9). A person who is not an individual, such as the employee's estate, may not be a designated beneficiary. If a person other than an individual is designated as a beneficiary of an employee's benefit, the employee will

be treated as having no designated beneficiary for purposes of section 401(a)(9), even if there are also individuals designated as beneficiaries.

Section 1.401(a)(9)-4, Q&A-5 provides that beneficiaries of a trust with respect to the trust's interest in an employee's benefit (and not the trust itself) will be treated as having been designated as beneficiaries for purposes of determining the applicable distribution period if certain requirements are met. The requirements are that (1) the trust is a valid trust under state law; (2) the trust is irrevocable or will, by its terms, become irrevocable upon the death of the employee; (3) the beneficiaries of the trust who are beneficiaries with respect to the trust's interest in employee's benefit are identifiable from the trust instrument; and (4) certain documentation has been provided to the plan administrator.

Section 1.401(a)(9)-4, Q&A-6 provides that in order to satisfy the fourth requirement of §1.401(a)(9)-4, Q&A-5, the trustee of the trust must provide certain documentation (such as a copy of the actual trust document of the trust that is the named beneficiary) by October 31 of the calendar year immediately following the calendar year in which the employee died. However, §1.401(a)(9)-1, Q&A-2(c) provides, in effect, that this requirement will be considered satisfied if the documentation is provided to the plan administrator by October 31, 2003.

Section 1.401(a)(9)-5, Q&A-1 provides that the amount required to be distributed for each calendar year is equal to the amount of the account divided by the applicable distribution period.

Section 1.401(a)(9)-5, Q&A-5 provides that, if an employee dies before distributions have begun, the applicable distribution period is based on the life expectancy of the designated beneficiary.

Section 1.401(a)(9)-5, Q&A-7(a) provides that if an employee has more than one individual that is a designated beneficiary, the designated beneficiary with the shortest life expectancy will be the designated beneficiary for purposes of determining the applicable distribution period.

Section 1.401(a)(9)-5, Q&A-7(b) provides that a contingent beneficiary (one whose entitlement to an employee's benefit after the employee's death is a contingent right) is considered a beneficiary for purposes of determining the designated beneficiary with the shortest life expectancy and whether a person other than an individual is a beneficiary, except as provided in §1.401(a)(9)-5, Q&A-7(c)(1).

Section 1.401(a)(9)-5, Q&A-7(c)(1) provides that for purposes of determining the beneficiary with the shortest life expectancy or whether a person other than an individual is a beneficiary, a person will not be considered a beneficiary merely because that person could become the successor to the interest of one of the employee's beneficiaries after that beneficiary's death. However, this exception does not apply to a

person who has any right (including a contingent right) to an employee's benefit beyond being a mere potential successor to the interest of one of the employee's beneficiaries upon that beneficiary's death. For example, if the first beneficiary has a right to all income with respect to an employee's individual account during that beneficiary's life and a second beneficiary has a right to the principal but only after the death of the first income beneficiary (any portion of the principal distributed during the life of the first income beneficiary to be held in trust until that first beneficiary's death), both beneficiaries must be taken into account in determining the beneficiary with the shortest life expectancy and whether only individuals are beneficiaries.

In regard to the first ruling request, based on your representation, the trust meets the four requirements of §1.401(a)(9)-4, Q&A-5 and therefore the beneficiaries of Trust are treated as designated beneficiaries of IRA X for purposes of determining the applicable distribution period under section 401(a)(9).

In regard to the second ruling request, Individual E, Individual F, and Individual G are the only beneficiaries taken into account for purposes of determining the applicable distribution period. Individual E is taken into account as a designated beneficiary because she is entitled to all net income of Trust while she is alive and is entitled to a distribution of the entire trust if she attains age 50. Individual F and Individual G are also taken into account as designated beneficiaries because the trustee has the discretion to make distributions of principal to them during Individual E's lifetime for their health, education, support, or maintenance, in addition to their contingent interest in the remainder of the Trust if Individual E dies before receiving full distribution of the Trust at age 50. All other potential recipients of the funds in the Trust are mere successor beneficiaries within the meaning of the regulations.

Individual E has the shortest life expectancy of the three designated beneficiaries taken into account in determining the applicable distribution period. Accordingly, the applicable distribution period for calculating the required minimum distributions from IRA X is based on Individual E's life expectancy.

This ruling expresses no opinion on the property rights of the parties under state law, and only provides a ruling on the impact of federal tax law on the specific facts presented.

This ruling is based on the assumption that the three IRAs maintained with Financial Institution A, Financial Institution B, and Financial Institution C were properly combined into IRA X.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material

submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Additionally, no opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited by others as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely yours,

Anne Bolling  
Acting Assistant to the Branch Chief  
Qualified Plans Branch 4  
Office of Associate Chief Counsel  
(Tax Exempt & Government Entities)