Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:TEGE:EB:QP4
PLR-118480-18

Date:
November 28, 2018

Legend:

Decedent =
Estate A =
Executor B =
IRA X =

N =
Beneficiaries =

Date O =
County P =
State Q =

Dear :

This is in response to your letter dated May 29, 2018, as supplemented by correspondence dated September 6, 2018, submitted on your behalf by your authorized representative, in which you request rulings under sections 401(a)(9), 408, and 691(a) of the Internal Revenue Code.

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

Decedent maintained an Individual Retirement Account (IRA), IRA X. Decedent died on , at age , after his required beginning date, as defined in section

401(a)(9). Prior to his death, Decedent had received required minimum distributions from IRA X for the year of death. Estate A was sole the beneficiary of IRA X. Executor B is the executor of Estate A. Decedent was unmarried at the time of his death. Decedent was survived by N nonspousal beneficiaries.(Beneficiaries)

Decedent's Last Will and Testament, executed on Date O, was duly admitted to probate in County P, of State Q. Pursuant to Item 5 of Decedent's Last Will and Testament, the Estate's interest was bequeathed to the Beneficiaries.

Executor B proposes to divide IRA X, as of Decedent's date of death, by trustee-to-trustee transfer into N inherited IRAs for the benefit of each Beneficiary according to their equitable bequests under the Decedent's Last Will and Testament. Each inherited IRA will be titled under the Decedent's name for the benefit of each Beneficiary.

Based on the foregoing facts and representations, you have requested the following rulings:

1. The division of IRA X as of the date of Decedent's death by means of trustee-to-trustee transfers into IRAs for the benefit of the N Beneficiaries according to their equitable percentages and titled in the name of the Decedent for the benefit of each individual Beneficiary (instead of titled to Estate A), will not result in taxable distributions or payments under section 408(d)(1) to Estate A.

2. The Beneficiaries can take the required minimum distributions from their inherited IRAs for the remaining life expectancy of the Decedent using the actuarial table and each inherited IRA will be independent of any required minimum distributions taken by other Beneficiaries.

3. The division of IRA X and the establishment of the N inherited IRAs will not constitute a transfer within the meaning of section 691(a)(2) and the Beneficiaries will include in gross income the amounts of income in respect to their required minimum distributions from their respective inherited IRAs when the distributions are received by the Beneficiaries, under section 691(a)(1)(C).

4. When the Beneficiaries receive their required minimum distributions, the Beneficiaries are responsible separately for any tax liabilities on the required minimum distributions for the tax year subsequent to the year the inherited IRAs are established or the year of death if later (and all subsequent tax years). No income taxes or penalties for failure of the Beneficiaries to take their own required minimum distributions for the tax year subsequent to the year the inherited IRAs are established or the year of death if later (and all subsequent tax years) will be passed to Estate A or Executor B.

Under section 408(a)(6) and the regulations thereunder, rules similar to the rules of section 401(a)(9) and the incidental death benefit requirements of section 401(a) apply

to the distribution of the entire interest of an individual for whose benefit the IRA is maintained.

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

Section 1.408-8, Q&A-1(b) provides that for purposes of applying the required minimum distribution rules in section 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 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 or the life expectancy of such employee and a designated beneficiary.

Section 401(a)(9)(B)(i) provides, in general, that if an employee/IRA holder dies after distribution of his interest has begun in accordance with section 401(a)(9)(A)(ii) (after his required beginning date), the remaining portion of his interest must be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

Section 401(a)(9)(C) 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 IRA holder attains age 70 ½.

Section 401(a)(9)(E) provides that for purposes of section 401(a)(9), the term designated beneficiary means any individual designated as beneficiary by the employee.

Section 1.401(a)(9)-4, Q&A-3, states that only individuals may be designated beneficiaries for purposes of section 401(a)(9). A person that is not an individual, such as the employee’s/IRA holder’s estate, may not be a designated beneficiary.

Section 1.401(a)(9)-4, Q&A-4, provides, in relevant part, that in order to be a designated beneficiary, an individual must be a beneficiary as of the date of the employee’s death. Generally, an employee’s designated beneficiary for purposes of determining the distribution period for required minimum distributions after the employee’s death will be determined based on the beneficiaries designated as of the date of death who remain

beneficiaries as of September 30 of the calendar year following the calendar year of the date of death (that is, have not received their entire interest before that September 30).

Section 1.401(a)(9)-5, Q&A-5(a)(2) provides, in summary, that if an employee/IRA holder dies on or after his required beginning date without having designated a beneficiary, then post-death distributions must be made over the remaining life expectancy of the employee/IRA holder determined in accordance with paragraph (c)(3) of this A-5.

Section 1.401(a)(9)-5, Q&A-5(c)(3) provides, in general, that with respect to an employee/IRA holder who does not have a designated beneficiary, the applicable distribution period measured by the employee's/IRA holder's remaining life expectancy is the life expectancy of the employee/IRA holder using the age of the employee/IRA holder as of the employee's/IRA holder's birthday in the calendar year of the employee's/IRA holder's death. In subsequent calendar years, the applicable distribution period is reduced by one for each calendar year that has elapsed after the calendar year of the employee's/IRA holder's death.

Under section 1.401(a)(9)-8, Q&A-2, in general and relevant part, if an account/IRA is divided into separate accounts/IRAs for the benefit of different beneficiaries, for years subsequent to the year the separate accounts/IRAs are established or the date of death if later, then the rules of section 401(a)(9) are applied separately to each of the respective accounts/IRAs.

Section 1.401(a)(9)-8, Q&A-3, provides that, for purposes of section 401(a)(9), separate accounts in an employee's/IRA holder's account are separate portions of an employee's/IRA holder's benefit reflecting the separate interests of the employee's/IRA holder's beneficiaries under the plan as of the date of the employee's/IRA holder's death for which separate accounting is maintained. The separate accounting must allocate all post-death investment gains and losses, contributions, and forfeitures, for the period prior to the establishment of the separate accounts on a pro rata basis in a reasonable and consistent manner among the separate accounts. However, once the separate accounts are actually established, the separate accounting can provide for separate investments for each separate account under which gains and losses from the investment of the account are only allocated to that account, or investment gain or losses can continue to be allocated among the separate accounts/IRAs on a pro rata basis. A separate accounting must allocate any post-death distribution to the separate account/IRA of the beneficiary receiving that distribution.

The relevant Single Life Table determining life expectancy is provided in 1.401(a)(9)-9, Q&A-1.

Section 408(d)(1) provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3)(A) provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if: (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution, or (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(C) provides, generally, that amounts from an “inherited” IRA cannot be rolled over into another IRA. In general, an “inherited” IRA is an IRA maintained by an individual who acquired the IRA by reason of the death of another if the acquiring individual is not the surviving spouse of such individual.

Revenue Ruling 78-406, 1978-2 C.B. 157, provides that the direct transfer of funds from one IRA trustee to another IRA trustee, even if at the behest of the IRA holder, does not constitute a payment or distribution to a participant, payee or distribute, as those terms are used in section 408(d). Furthermore, such a transfer does not constitute a rollover distribution. Revenue Ruling 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.

Section 691(a)(1) provides that the amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of his death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income, for the taxable year when received, of: (A) the estate of the decedent, if the right to receive the amount is acquired by the decedent’s estate from the decedent; (B) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent’s estate from the decedent; or (C) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent’s estate of such right.

Section 691(a)(2) provides that if a right, described in section 691(a)(1), to receive an amount is transferred by the estate of the decedent or a person who received such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For purposes of this paragraph, the term "transfer" includes sale, exchange, or other disposition, or the satisfaction of an installment obligation at other than face value, but does not include transmission at death to the estate of the decedent or a transfer to a person pursuant to the right of such person to receive such amount by reason of the death of the decedent or by request, devise, or inheritance from the decedent.

Section 1.691(a)-1(b) provides that the term "income in respect of a decedent" (IRD) refers to those amounts to which a decedent was entitled as gross income, but which were not properly includible in computing the decedent's taxable income for the taxable year ending with the date of the decedent's death or for a previous taxable year under the method of accounting employed by the decedent. Section 1.691(a)-1(c) provides that the term "income in respect of decedent" also includes the amount of all items of gross income in respect of a prior decedent, if (1) the right to receive such amount was acquired by the decedent by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent and if (2) the amount of gross income in respect of the prior decedent was not properly includible in computing the decedent's taxable income for the taxable year ending with the date of his death or for a previous taxable year.

Section 1.691(a)-4(a) provides that in general, the transferor must include in his gross income for the taxable period in which the transfer occurs the amount of the consideration, if any, received for the right or the fair market value of the right at the time of the transfer, whichever is greater.

Section 1.691(a)-4(b) provides that if the estate of a decedent or any person transmits the right to IRD to another who would be required by section 691(a)(1) to include such income when received in his gross income, only the transferee will include such income when received in his gross income. In this situation, a transfer within the meaning of section 691(a)(2) has not occurred.

Section 1.691(a)-4(b)(2) provides that if a right to IRD is transferred by an estate to a specific or residuary legatee, only the specific or residuary legatee must include such income in gross income when received.

Revenue Ruling 92-47, 1991-1 C.B. 198, holds that a distribution to the beneficiary of a decedent's IRA that equals the amount of the balance in the IRA at the decedent's death, less any nondeductible contributions, is IRD under section 691(a)(1) that is

includible in the gross income of the beneficiary for the tax year the distribution is received.

The rules discussed above will apply to your ruling requests as follows:

1. The division of IRA X as of the Decedent's date of death by means of trustee-to-trustee transfers into inherited IRAs for the benefit of the N Beneficiaries, according to their equitable percentages and titled in the name of the Decedent and each individual Beneficiary (instead of titled to Estate A), will not result in taxable distributions or payments under section 408(d)(1) to Estate A.

2. Because Estate A was listed as the designated beneficiary of IRA X, IRA X is treated as having no designated beneficiary. Because IRA X had no designated beneficiary and the Decedent died after his required beginning date, the Beneficiaries can take required minimum distributions from each of their inherited IRAs for the remaining life expectancy of the Decedent. The amount required to be distributed each year is determined using the Decedent's age in the calendar year of death and the applicable actuarial table. The life expectancy factor is reduced by one each subsequent calendar year. The amount required to be taken from each inherited IRA will be determined independently of any required minimum distributions required to be taken by the other Beneficiaries.

3. The division of IRA X by means of trustee-to-trustee transfer into N inherited IRAs will not constitute a transfer within the meaning of section 691(a)(2). The Beneficiaries will each include, in their gross income, the amounts of IRD from their respective inherited IRA when the distribution or distributions from the inherited IRAs are received.

4. The Beneficiaries of each respective inherited IRA are separately responsible for any tax liabilities relating to required minimum distributions from their inherited IRAs for the tax year subsequent to the year the inherited IRAs are established or the year of death if later (and all subsequent tax years). No income taxes or penalties for failure of the Beneficiaries to take their required minimum distributions for the tax year subsequent to the year the inherited IRAs are established or the year of death if later (or any subsequent tax years) will be passed to Estate A or Executor B.

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.

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

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed

by an appropriate party, as specified in Rev. Proc. 2018-1, 2018-1 I.R.B. 1, section 7.01(16)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2018-1, section 11.05.

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

Sincerely,

Cathy V. Pastor
Senior Counsel
Qualified Plans Branch 4
Office of Associate Chief Counsel
(Tax Exempt & Government Entities)

cc: