Department of the Treasury
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Internal Revenue Service

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Person To Contact:
, ID No.
Telephone Number:

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Date:
April 08, 2019

Decedent	=
Spouse	=
Child 1	=
Child 2	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=
Trust	=
Estate	=

Will	=
Company A	=
IRA X	=

Dear :

This letter is in response to a request for a letter ruling under section 408 of the Internal Revenue Code, submitted on behalf of Estate by its authorized representative in correspondence dated September 4, 2018, as supplemented by correspondence dated March 7, 2019.

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Decedent was born on Date 1. Decedent died on Date 2, which is after his "required beginning date," as that term is defined in section 401(a)(9)(C). Decedent was predeceased by his spouse, Spouse, and was survived by two children, Child 1 and Child 2. On Date 3, Decedent executed Will and also, together with Spouse, Trust. Pursuant to Will, Estate is payable to Trust.

Pursuant to section 3.5 of Trust, upon the death of Decedent, Trust assets are to be distributed in accordance with the terms of "Family Trust," under Article IV. Pursuant to section 5.2 of Trust, upon the death of Decedent, the Family Trust assets (except personal property) are divided in equal shares for Child 1 and Child 2. Such shares are not held further in trust and are instead to be distributed to Child 1 and Child 2. Pursuant to section 9.7 of Trust, the trustee has the power to make any distribution in-kind.

Decedent was owner of an individual retirement account (IRA), IRA X, which is maintained by Company A. On Date 4, Decedent named Estate as the beneficiary of IRA X. IRA X is currently titled IRA of Decedent FBO Estate. Estate now wishes to divide IRA X, by means of trustee-to-trustee transfer, into two separate inherited IRAs for the benefit of Child 1 and Child 2, respectively.

Based on the facts and representations, you request the following rulings:

1. Estate can transfer, via trustee-to-trustee transfer, IRA X in-kind to inherited IRAs FBO Estate FBO Child 1 and Child 2, respectively (using Child 1 and Child 2's social security numbers) and such in-kind transfers do not constitute taxable distributions within the meaning of section 408(d)(1) or constitute a rollover as that term is used in section 408(d)(3).

2. The inherited IRAs created by means of trustee-to-trustee transfers which will be maintained in the name of Decedent FBO Estate FBO Child 1 and Child 2, respectively, (using each Child's social security number for their respective IRA) will constitute inherited IRAs as such term is defined in section 408(d)(3)(C).

Law

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) provides an exception to income inclusion under section 408(d)(1) for certain distributions from an IRA to the individual for whose benefit the IRA is maintained that are rolled over within 60 days to another IRA for the benefit of that individual.

Section 408(d)(3)(C) provides that amounts from an inherited IRA cannot be rolled over into another IRA. Under section 408(d)(3)(C)(ii), an IRA is treated as an inherited IRA if the individual for whose benefit the IRA is maintained acquired the IRA by reason of the death of another individual, and such individual is not the surviving spouse of the other individual.

Section 1.408-2(b)(8) provides that the term beneficiaries on whose behalf an IRA is established includes (except where the context indicates otherwise) the estate of the individual, dependents of the individual, and any person designated by the individual to share in the benefits after the death of the individual.

Revenue Ruling 78-406, 1978-2 C.B. 157, provides that the trustee-to-trustee transfer of funds from one IRA maintained by an individual to another IRA maintained by the same individual, even at the direction of that individual, does not constitute a payment or distribution includible in gross income.

Analysis

With respect to your first ruling request, Estate intends to execute trustee-to-trustee transfers to separate each beneficiary's interest in IRA X. Such transfers will be into two separate IRAs established and maintained in the name of Decedent (deceased) for the benefit of Estate for the benefit of a beneficiary.

In this case, consistent with Rev. Rul. 78-406, the portion of IRA X that is, in effect, maintained in the name of Decedent (deceased) for the benefit of Estate for the benefit of a beneficiary is being separated from the portion maintained for other beneficiaries and is being transferred to another IRA maintained in the name of Decedent (deceased) for the benefit of Estate for the benefit of that beneficiary, with no other change in title from the transferor IRA to the transferee IRA.

With respect to your second ruling request, each IRA created by means of a trustee-to-trustee transfer from IRA X will be titled in the name of "Decedent (deceased) FBO Estate FBO [name of beneficiary]." In addition, each beneficiary will have acquired such IRA by reason of the death of Decedent and is not the surviving spouse of Decedent. Thus, each of these IRAs constitutes an inherited IRA under section 408(d)(3)(C)(ii).

Rulings

Thus, with respect to your ruling requests, we conclude as follows:

1. Estate can transfer, via trustee-to-trustee transfer, amounts from IRA X (which is currently titled in the name of Decedent FBO Estate) to one inherited IRA in the name of Decedent (deceased) FBO Estate FBO Child 1 and another inherited IRA in the name of Decedent (deceased) FBO Estate FBO Child 2 to separate the interests of Child 1 and Child 2 in IRA X, and such transfers do not result in distributions under section 408(d)(1) or rollovers under section 408(d)(3).

2. The inherited IRAs created by means of trustee-to-trustee transfers, which will be maintained in the name of Decedent (deceased) FBO Estate FBO Child 1 and Child 2,

respectively (using each child's social security number for their respective IRA), will constitute inherited IRAs as such term is defined in section 408(d)(3)(C).

This letter assumes that IRA X satisfies the requirements of section 408 at all times relevant thereto. It also assumes that the transferee IRAs to be set up for the benefit of Child 1 and Child 2 will also meet the requirements of section 408 at all times relevant thereto.

The rulings contained in this letter ruling 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. 2019-1, 2019-1 I.R.B. 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for a letter 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. 2019-1, § 11.05.

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 ruling.

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

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

Sincerely,

Neil Sandhu
Senior Technician Reviewer
Qualified Plans, Branch 1
(Employee Benefits, Exempt Organizations, and Employment Taxes)

cc: