

Internal Revenue Service

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Person To Contact:
, ID No.

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PLR-120459-22
Date: March 3, 2023

Legend:

Decedent A =

Taxpayer B =

Estate E =

State S =

IRA X =

IRA Y =

IRA Z =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Year 1 =

Year 2 =

Year 3 =

Dear :

This is in response to a request for a letter ruling under sections 408(d)(1) and (d)(3) of the Internal Revenue Code, submitted on your behalf by your authorized representative in correspondence dated October 6, 2022, and updated by correspondence dated January 9, 2023.

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

Decedent A was the owner of IRA X and IRA Y, each a traditional individual retirement arrangement (IRA). Decedent A designated Decedent A's estate, Estate E, as the beneficiary of IRA X and IRA Y. Decedent A died on Date 2 in Year 1, before Decedent A's required beginning date (as defined in section 401(a)(9)(C)).

Decedent A's will, dated Date 1, names Decedent A's spouse, Taxpayer B, as the sole executor and sole residuary beneficiary of Estate E. On Date 3 in Year 2, a probate court in State S appointed Taxpayer B as executor of Estate E and admitted Decedent's A's will to probate. On behalf of Estate E, Taxpayer B consolidated IRA X and IRA Y into IRA Z in Year 2. IRA Z is a beneficiary IRA maintained for the benefit of Estate E as beneficiary of Decedent A. On Date 4, and as modified on Date 5 (both in Year 3), a probate court in State S authorized IRA Z to be distributed as part of Decedent A's residuary estate to Taxpayer B.

No distributions have yet been made from IRA Z.

As sole executor of Estate E, Taxpayer B intends to pay the entire proceeds of IRA Z to Estate E, and then to receive the proceeds as residuary beneficiary of Estate E. Taxpayer B intends to roll over the proceeds, within 60 days of the date the proceeds are paid to Estate E, to an IRA maintained in Taxpayer B's name. IRA Z has at all times been maintained as a traditional IRA.

Requested Rulings

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

1. The proceeds of IRA Z to be paid by Taxpayer B will be treated as being paid directly from IRA Z to Taxpayer B, and as a result, Taxpayer B will be treated as the payee or distributee of IRA Z for purposes of section 408(d)(1).
2. IRA Z will not be treated as an inherited IRA within the meaning of section 408(d)(3)(C) with respect to Taxpayer B.
3. Taxpayer B is eligible to roll over IRA Z into an IRA or IRAs set up and maintained in Taxpayer B's own name, as long as the rollover of that distribution occurs no later than the 60th day after the date the distribution is received by Taxpayer B as executor of Estate E.
4. Taxpayer B will not be required to include in gross income for federal income tax purposes for the year in which the distribution of IRA Z, and subsequent rollover, is made, any portion of the amounts from IRA Z received by Estate E and rolled over to the IRA set up and maintained in Taxpayer B's name.

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)(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)(B) provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(C)(i) provides that in the case of an inherited IRA, section 408(d)(3) shall not apply to any amount received by an individual from such account (and no amount transferred from such account to another IRA shall be excluded from income by reason of such transfer), and such inherited account shall not be treated as an IRA for purposes of determining whether any other amount is a rollover contribution.

Section 408(d)(3)(C)(ii) provides that the term "inherited IRA" means an IRA acquired by an individual, other than the IRA owner's spouse, as a result of the death of the IRA owner.

Section 408(d)(3)(D) permits the rollover of a portion of the amount paid or distributed from an IRA, providing that if the amount paid or distributed out of an IRA would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan, such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan within the applicable 60 day period.

Section 408(d)(3)(E) provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6) (regarding required minimum distributions under section 401(a)(9)).

Section 408A(d)(3) contains a special rule that applies for a rollover to a Roth IRA from

a non-Roth IRA, which provides in part that, notwithstanding section 408(d)(3), there is included in gross income any amount which would be includible were it not part of a qualified rollover contribution.

Analysis

Generally, if a decedent's IRA proceeds pass through a third party (for example, an estate) and then are distributed to the decedent's surviving spouse, the surviving spouse will be treated as having received the IRA proceeds from the third party and not from the decedent's IRA. Thus, generally, a surviving spouse will not be eligible to roll over the IRA proceeds into the surviving spouse's own IRA.

However, the general rule will not apply in situations in which the decedent's estate is the beneficiary of a decedent's IRA proceeds, and the decedent's surviving spouse is the sole executor of the estate and the sole beneficiary of the IRA proceeds that pass through the estate. Under these circumstances no third party can prevent the surviving spouse from receiving the proceeds of the IRA and from rolling over the proceeds into the surviving spouse's own IRA.

Under the facts presented, the IRA X and IRA Y account balances (later consolidated into the IRA Z account balance) remaining at Decedent A's death is payable to Decedent A's estate under the terms of Decedent A's will. Taxpayer B, Decedent A's surviving spouse, is the sole executor of Decedent A's estate (Estate E) and the sole residuary beneficiary under Decedent A's will. As executor, Taxpayer B can cause the IRA Z proceeds to be paid to Estate E and then to Taxpayer B as Estate E's residual beneficiary. Accordingly, for purposes of section 408(d)(3)(A), Taxpayer B is effectively the individual for whose benefit IRA Z is maintained. Thus, if Taxpayer B receives the IRA Z proceeds, Taxpayer B may roll over the proceeds (other than any amounts required to be distributed in accordance with the required minimum distribution rules of section 401(a)(9)) into one or more IRAs set up and maintained in Taxpayer B's name, provided that all other applicable rules of section 408(d)(3) are satisfied.

Therefore, with respect to your first ruling request, the IRA Z proceeds that are paid to Estate E and then received by Taxpayer B and timely rolled over to an IRA or IRAs set up and maintained in Taxpayer B's name may be treated as paid or distributed to Taxpayer B under sections 408(d)(1) and (d)(3).

With respect to your second ruling request, Taxpayer B is the surviving spouse of Decedent A. Therefore, IRA Z is not treated as an inherited IRA for purposes of section 408(d)(3).

With respect to your third ruling request, as concluded above, Taxpayer B may roll over the IRA Z proceeds paid to Estate E and then received by Taxpayer B to an IRA or IRAs set up and maintained in Taxpayer B's name, provided that the rollover occurs no later than the 60th day after the day the proceeds are paid to Estate E.

With respect to your fourth ruling request, except in the case of a rollover to a Roth IRA, Taxpayer B will not be required to include in Taxpayer B's gross income any portion of the IRA Z proceeds timely rolled over to an IRA or IRAs set up and maintained in Taxpayer B's name.

Rulings

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

1. Taxpayer B will be treated for purposes of section 408(d)(1) and (d)(3) as the payee or distributee of the proceeds from IRA Z.
2. IRA Z will not be treated as an inherited IRA, within the meaning of section 408(d)(3)(C), with respect to Taxpayer B.
3. Taxpayer B will be eligible to roll over the proceeds from IRA Z into an IRA or IRAs set up and maintained in Taxpayer B's name, as long as the rollover occurs no later than the 60th day after the date the proceeds are paid to Estate E.
4. Except in the case of a rollover to a Roth IRA, Taxpayer B will not be required to include in Taxpayer B's gross income any portion of the IRA Z proceeds timely rolled over to an IRA or IRAs set up and maintained in Taxpayer B's name.

This letter assumes that IRA X, IRA Y, and IRA Z satisfy the requirements of section 408 at all relevant times. It also assumes that the rollover IRA or IRAs set up by Taxpayer B will satisfy the requirements of section 408 at all relevant times.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer B and accompanied by a penalties of perjury statement executed by Taxpayer B, as specified in Rev. Proc. 2023-1, 2023-1 I.R.B. 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for 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. 2023-1, § 11.05.

Except as expressly provided above, no opinion is expressed or implied concerning the federal income tax consequences of any other aspects of any transaction or item of income described in this letter ruling.

This letter 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 is being sent to your authorized representative.

Sincerely,

/s/ Neil Sandhu

Neil Sandhu
Senior Technician Reviewer
Qualified Plans Branch 1
Office of the Associate Chief Counsel
(Employee Benefits, Exempt Organizations,
and Employment Taxes)

cc: