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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

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, ID No.

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Date:
November 07, 2024

LEGEND

Trust	=
Decedent	=
Date 1	=
Date 2	=
Date 3	=
A	=
Retirement Accounts	=
n	=
m	=
Trustees	=
N	=

Individual Beneficiaries =

Foundation =

Dear :

This letter responds to a to a letter dated May 6, 2024, and subsequent correspondence, submitted on behalf of Trust requesting rulings under §§ 401(a)(9), 402(c), 408, 642(c)(1), and 691(a) of the Internal Revenue Code (Code).

FACTS

According to the information submitted and representations made, Decedent created Trust, a revocable trust, on Date 1. Decedent amended and restated Trust on Date 2.

Decedent maintained multiple retirement accounts (Retirement Accounts) at the time of her death, each of which named Trust as the sole designated beneficiary. Decedent died on Date 3, at age A.

Article IV.D of Trust provides that upon the death of Decedent, the trustee shall divide the remainder of the property held in Trust, consisting of the Retirement Accounts and other assets, into shares set forth in Exhibit A. Exhibit A of Trust provides that a total of n percent of the Trust remainder shall be divided among N named Individual Beneficiaries to be distributed in specified percentages (Non-Charitable Share) and that m percent of shall be distributed to charitable organizations selected by Trustees (Charitable Share).

Trustees formed Foundation, represented as being a private foundation described in § 501(c)(3) of the Code. In accordance with its governing provisions, Trust proposes to receive a lump sum distribution of cash from the Retirement Accounts and then pay that cash to Foundation within the same taxable year.

To the extent that the value of the Retirement Accounts exceeds the value of the Charitable Share, Trust proposes to transfer the amounts remaining within Retirement Accounts to one or more of the N named Individual Beneficiaries. Trust proposes to execute this transaction as a trustee-to-trustee transfer into an inherited individual retirement account (IRA) for the benefit of one or more of the Individual Beneficiaries that is specified. Each inherited IRA will be titled under the Decedent's name for the benefit of each of the Individual Beneficiaries that is specified. Following the transfer the of the Retirement Accounts, Trustees will terminate Trust within the same taxable year.

You requested the following rulings:

1. Trust is entitled to a deduction under § 642(c)(1) equal to the amount of gross income "in respect of a decedent" (IRD) included in Trust's gross income as a result of the lump sum distribution of cash from Retirement Accounts to the extent it is distributed to Foundation within the same taxable year.

2. The transfer (and division) of one or more of designated Retirement Account(s) as of the date of Decedent's death by means of trustee-to-trustee transfers into IRAs for the benefit of any one of the Individual Beneficiaries of the Non-Charitable Share of Trust (in accordance with their equitable percentages) and titled in the name of the Decedent for the benefit of each (instead of titled for the benefit of the Trust), will not result in taxable distributions or payments under §§ 402(c) and 408(d)(1) to Trust.

3. Each of the Individual Beneficiaries can take the required minimum distributions from their inherited IRAs transferred from Retirement Accounts 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 Individual Beneficiaries.

4. The transfer (and division) of the Retirement Accounts by means of trustee-to-trustee transfers into inherited IRAs will not constitute a transfer within the meaning of § 691(a)(2). The Individual Beneficiaries of the Non-Charitable Share will each include, in their gross income, the amounts of income in respect of a decedent from their respective inherited IRA when the distribution or distributions from the inherited IRAs are received.

5. When the Individual Beneficiaries of the Non-Charitable Share receive their required minimum distributions, each of the Individual Beneficiaries is 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 Individual 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 Trust or Trustees.

LAW

Rulings 1 and 4

Section 691(a)(1) provides that the amount of all items of gross income in respect of a decedent which are not properly includable in respect of the taxable period in which falls the date of the decedent's 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; (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 § 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 § 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 § 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, 1992-1 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 § 691(a)(1) that is includable in the gross income of the beneficiary for the tax year the distribution is received.

Section 642(c)(1) provides that in the case of an estate or trust (other than a trust meeting the specifications of subpart B of part I of subchapter J of chapter 1), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by § 170(a), relating to deduction for charitable, etc. contributions and gifts) any amount of gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in § 170(c) (determined without regard to § 170(c)(2)(A)).

Section 1.642-1(a)(1) provides that any part of the gross income of a trust which, pursuant to the terms of the governing instrument, is paid during a taxable year for a charitable purpose shall be allowed as a deduction to the trust.

Ruling 2

Section 408(d)(1) provides that, except as otherwise provided in § 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 § 72.

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 § 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 402(c)(1) provides, generally, that if any portion of an eligible rollover distribution from a § 401(a) qualified retirement plan is transferred into an eligible retirement plan, the portion of the distribution so transferred shall not be includible in gross income in the taxable year in which paid.

Section 402(c)(4) defines an eligible rollover distribution as any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include-

(A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made-
 (i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or
 (ii) for a specified period of 10 years or more,
(B) any distribution to the extent such distribution is required under § 401(a)(9), and
(C) any distribution which is made upon hardship of the employee.

Section 402(c)(8)(B) defines an eligible retirement plan as (i) an individual retirement account described in § 408(a), (ii) an individual retirement annuity described in § 408(b) (other than an endowment contract), (iii) a trust qualified under § 401(a), (iv) an annuity plan described in § 403(a), (v) an eligible deferred compensation plan described in § 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A), and (vi) an annuity contract described in § 403(b).

Section 402(c)(11) describes distributions to an inherited individual retirement plan of a nonspouse beneficiary, and provides:

(A) In general. If, with respect to any portion of a distribution from an eligible retirement plan described in paragraph (8)(B)(iii) of a deceased employee, a direct trustee-to-trustee transfer is made to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of an individual who is a designated beneficiary (as defined by § 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee-
 (i) the transfer shall be treated as an eligible rollover distribution,
 (ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of § 408(d)(3)(C)) for purposes of this title, and
 (iii) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

(B) Certain trusts treated as beneficiaries. For purposes of this paragraph, to the extent provided in rules prescribed by the Secretary, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

<u>Rulings 3 and 5</u>

Under § 408(a)(6) and the regulations thereunder, rules similar to the rules of § 401(a)(9) and the incidental death benefit requirements of § 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) (as in effect for the years at issue in the present case), provides that an IRA is subject to the required minimum distribution rules under

§ 401(a)(9). In order to satisfy § 401(a)(9), the rules of § 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) (as in effect for the years at issue in the present case) 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 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 § 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) (as in effect before January 1, 2020) 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 § 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 (as in effect for the years at issue in the present case), states that only individuals may be designated beneficiaries for purposes of § 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 (as in effect for the years at issue in the present case), 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) (as in effect for the years at issue in the present case) 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) (as in effect for the years at issue in the present case) 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 (as in effect for the years at issue in the present case), 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 § 401(a)(9) are applied separately to each of the respective accounts/IRAs.

Section 1.401(a)(9)-8, Q&A-3 (as in effect for the years at issue in the present case), provides that, for purposes of § 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.

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that:

Ruling 1

Provided that Trust pays the entire lump sum distribution to Foundation within the same taxable year received, Trust is entitled to a deduction under § 642(c)(1) equal to the amount of IRD included in Trust's gross income as a result of the distribution of the Retirement Accounts.

Ruling 2

The transfer (and division) of Retirement Accounts as of the Decedent's date of death by means of trustee-to-trustee transfers into inherited IRAs for the benefit of any one of the Individual Beneficiaries of the Non-Charitable Share of Trust, according to their equitable percentages and titled in the name of the Decedent for the benefit of each individual beneficiary (instead of titled for the benefit of the Trust), will not result in taxable distributions or payments under §§ 402(c) or 408(d)(1) to Trust.

Ruling 3

Because Trust was listed as the designated beneficiary of each of the Retirement Accounts, the Retirement Accounts are treated as having no designated beneficiary. Because the Retirement Accounts did not have a designated beneficiary, and the Decedent died after her required beginning date, each of the Individual Beneficiaries of the Non-Charitable Share can take required minimum distributions from each of their inherited IRAs transferred from the Retirement Accounts 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 amount required to be taken from each inherited IRA transferred from the Retirement Accounts will be determined independently of any required minimum distributions required to be taken by any other individual beneficiary of the Non-Charitable Share.

Ruling 4

The division and transfer of Retirement Accounts by means of a trustee-to-trustee transfer into inherited IRAs will not constitute a transfer within the meaning of § 691(a)(2). The Individual 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 pursuant to § 691(a)(1)(B).

Ruling 5

The Individual Beneficiaries of each respective inherited IRA transferred from the Retirement Accounts are separately responsible for any tax liabilities relating to required minimum distributions from their inherited IRAs or 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 Individual 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 Trust or Trustees.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code.

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. While this office has not verified any of the materials submitted in support of the ruling request, it is subject to verification on examination.

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

Pursuant to a power of attorney on file, a copy of this letter is being sent to Trust's authorized representative.

Sincerely,

Jennifer N. Keeney
Senior Counsel, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure
Copy of letter for § 6110 purposes

cc: