

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number: _____

In Re: Private Letter Ruling Request

Refer Reply To:
CC:EEE:EB:QP4
PLR-108293-24
Date:
October 28, 2024

LEGEND

Taxpayer =

Decedent =

Date 1 =

Date 2 =

Dear _____ :

This is in response to your letter dated April 24, 2024, submitted on your behalf by your authorized representative, in which you request rulings under section 408 of the Internal Revenue Code.

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

Decedent was born on Date 1. Decedent died testate on Date 2, prior to attaining age 73. Prior to Date 2, Decedent established several IRAs. With respect to each of the IRAs, Decedent designated Decedent's estate as the primary beneficiary and Taxpayer as the secondary beneficiary.

Item II of Decedent's Will permits Decedent to grant personal effects to intended distributees in accordance with the list (if any) attached to, or enclosed with, Decedent's Will. Item II states that if no such list is attached to, or enclosed with, Decedent's Will, then it shall be presumed that no such list exists. You represent that Decedent's Will, that is certified by Court Order Admitting Will to Probate in Solemn Form in the Probate Court of the County of Coweta, State of Georgia, does not include such list.

Item III of Decedent's Will bequeaths the residue and remainder of Decedent's estate to Taxpayer.

Item IV of Decedent's Will names Taxpayer as sole executor of the Will. When the Will was submitted to probate, Taxpayer was appointed as the sole personal representative of Decedent's Estate.

You represent that Decedent's IRAs are currently held in inherited IRAs in Decedent's name for the benefit of Decedent's estate. Taxpayer intends to request the distribution of the assets of the IRAs to Taxpayer as sole beneficiary and executor of Decedent's estate and, within 60 days of receipt of the distribution, roll over the distributions to one or more IRAs in Taxpayer's own name.

Rulings Requested

Based on the facts and representations, the following rulings were requested:

1. Taxpayer, as Decedent's spouse, will be treated as having acquired Decedent's IRAs directly from Decedent, and not from the Decedent's estate.
2. Taxpayer is eligible to roll over Decedent's IRAs into one or more IRAs established and maintained in Taxpayer's own name pursuant to section 408(d)(3)(A)(i), provided that the rollover occurs no later than 60 days after the proceeds of Decedent's IRAs are distributed.
3. Taxpayer will not be required to include in gross income for federal tax purposes, for the year in which the distribution of Decedent's IRAs occurs, any portion of the proceeds distributed from Decedent's IRAs that are timely rolled over into one or more IRAs set up and maintained in Taxpayer's name.

Law

With respect to your ruling requests, 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 that section 408(d)(1) does not apply to a rollover contribution if such contribution satisfies the requirements of section 408(d)(3)(A) and (B).

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 account 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 he receives the payment or distribution or (ii) the entire amount received (including

money and any other property) is paid into an eligible retirement plan 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 one-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 his gross income because of the application of section 408(d)(3).

Section 408(d)(3)(C)(i) provides, in pertinent part, 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 gross 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 an IRA shall be treated as inherited if the individual for whose benefit the account is maintained acquired such account by reason of the death of another individual, and such individual was not the surviving spouse of such other individual.

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 shall be 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 spouse's own IRA.

However, the general rule will not apply where 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 Decedent's IRAs are payable to Decedent's estate under the terms of Decedent's will. Item III of Decedent's Will gives all of Decedent's estate to Taxpayer, Decedent's spouse. Item IV of Decedent's Will names Taxpayer as sole executor of the Will. The Will was admitted to probate and Taxpayer was appointed sole personal representative of Decedent's estate. In that capacity, Taxpayer can cause the Decedent's IRA proceeds to be paid to Decedent's estate and then to Taxpayer as beneficiary of the estate. Accordingly, for purposes of section 408(d)(3)(A), Taxpayer is effectively the individual for whose benefit Decedent's IRAs are maintained. Thus, if Taxpayer receives Decedent's IRA proceeds, Taxpayer may roll over the proceeds into one or more IRAs maintained in Taxpayer's name, provided that all other applicable rules of section 408(d)(3) are met.

With respect to your first ruling request, Taxpayer is the surviving spouse of Decedent. Therefore, Taxpayer will be treated as having acquired Decedent's IRAs directly from Decedent, and not from the Decedent's estate.

With respect to your second ruling request, as concluded above, Taxpayer may roll over the Decedent's IRA proceeds received by Taxpayer to one or more IRAs set up and maintained in Taxpayer's name, provided the rollover occurs no later than the 60th day from the day the proceeds of Decedent's IRAs are distributed.

With respect to your third ruling request, section 408(d)(1) provides that, except as otherwise provided under section 408(d), any amount paid or distributed out of an IRA shall be included in the gross income by the payee or distributee. Section 408(d)(3)(A)(i) provides that section 408(d)(1) does not apply to a rollover contribution meeting the requirements of section 408(d)(3). As concluded in the second ruling described above, Taxpayer may roll over the Decedent's IRA proceeds in accordance with section 408(d)(3). Therefore, except in the case of a rollover from a non-Roth IRA to a Roth IRA, Taxpayer will not be required to include in Taxpayer's gross income any portion of Decedent's IRA proceeds timely rolled over to an IRA set up and maintained in Taxpayer's name.

Rulings

Therefore, with respect to your ruling requests, we conclude that:

1. Taxpayer will be treated as having acquired Decedent's IRAs directly from Decedent, and not from the Decedent's estate.
2. Taxpayer is eligible to roll over the proceeds of Decedent's IRAs to one or more IRAs set up and maintained in Taxpayer's own name pursuant to section 408(d)(3)(A)(i), as long as the rollover occurs no later than 60 days after the proceeds from Decedent's IRAs are distributed.
3. Except in the case of a rollover to a Roth IRA, Taxpayer will not be required to include in gross income any portion of the proceeds distributed from Decedent's

IRAs that are timely rolled over to an IRA set up and maintained in Taxpayer's name.

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. 2024-1, 2024-1 IRB 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for rulings (including the validity of Decedent's Will), and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply 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 rulings 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. 2024-1, § 11.05.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter ruling.

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.

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,

Brandon Ford
Senior Technician Reviewer, Qualified Plans
Branch 4
(Employee Benefits, Exempt Organizations, and
Employment Taxes)

cc: