INTERNAL REVENUE SERVICE

Number: **INFO 2001-0275**
Release Date: 12/31/2001
UIL: 402.00-00

COR-142296-01
October 11, 2001

Dear

      This is in response to your correspondence of July 5, 2001, to the Internal Revenue Service. Your correspondence concerns your ability to combine a Keogh Plan and an individual retirement account (IRA) and receive the minimum distribution from one account.

      The specific information you gave us is as follows. You are 73 years old and have both a Keogh Plan and an IRA. You are receiving an annual minimum distribution from the Keogh Plan of $6,000 and an annual minimum distribution from the IRA of $4,000. You would like to take the total annual minimum distribution of $10,000 from the Keogh Plan and if you cannot do that you would like to roll over the Keogh Plan into a new IRA and take the $10,000 minimum distribution from the new IRA.

      With respect to your first question, you cannot take the entire total annual minimum distribution for the Keogh Plan and the IRA from just the Keogh Plan. Federal Income Tax Regulations prohibit combining two employer plans and taking the total minimum distribution from one. Two IRA's, however, may be combined and the total minimum distribution may be taken from one, but there are no provisions for combining a Keogh Plan and an IRA for this purpose. Thus, the total minimum distribution for the IRA and Keogh Plan cannot be taken from the Keogh Plan.

      Your next question concerns your ability to roll over the Keogh Plan into an IRA, the minimum required distribution from the Keogh Plan for 2001 and whether you can roll over part of the Keogh Plan to an IRA. It appears to us that you wish to take the minimum distribution from the Keogh Plan for 2001 and roll over the rest of the Keogh Plan into an IRA. From the information you have given us, it does not appear that you will be able to do this.

      Section 402(c) of the Internal Revenue Code sets forth the rules for rollovers

from qualified plans to IRA's. 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 plan. This definition does not include, however, any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made (1) 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 (2) for a specified period of ten years or more. In addition any distribution that is a required minimum distribution under section 401(a)(9) is not an eligible rollover distribution.

We do not have exact information about the election you made at age 70 ½ to receive the minimum distribution from the Keogh Plan. However, you do state that you are receiving a minimum distribution of $6,000 from your "Keogh annuity retirement plan."   Based upon this language, it appears that you have a type of annuity contract and under the Federal Income Tax Regulations, the entire amount of any such annuity payment made on or after January 1 of the year in which an employee attains age 70 ½ will be treated as an amount required under section 401(a)(9) and thus will not be an eligible rollover distribution. Another possibility, based upon the information you have supplied, is that you are receiving substantially equal payments over your life expectancy or for a period of ten years or more. None of these payments would be eligible to be rolled over into an IRA.

Based upon the information you have furnished, it appears that you should continue to receive the minimum distribution for your IRA from your IRA and the minimum distribution for your Keogh Plan from your Keogh Plan.

We trust this information addresses your concerns. This is a general information letter and not a ruling. Thus, it cannot be relied upon as a ruling.

Sincerely,

ROBERT D. PATCHELL
Acting Chief, Qualified Plans
        Branch Two
Office of the Division Counsel/
Associate Chief Counsel
(Tax Exempt and
        Government Entities)