



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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UIL: 408.08-00

The Honorable David P. Roe
Member, U.S. House of Representatives
1609 College Park Drive, Suite 4
Morristown, Tennessee 37813

Attention:

Dear Congressman Roe:

I apologize for the delay in responding to your inquiry dated October 30, 2013, on behalf of your constituent, . says that in 2008 he asked his broker at to purchase a nonqualified annuity contract from using \$ that and his wife had received from the sale of real estate. It appears that issued an individual retirement annuity (IRA) under section 408(b) of the Internal Revenue Code instead of a nonqualified annuity.

Unfortunately, we do not have the authority to settle the dispute between and . Also, because some of the facts appear to be in dispute, we do not have enough information to address the tax consequences of the transactions at issue. Within the IRS, matters involving IRAs are within the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division (Employee Plans Technical Office).

There are significant tax differences with respect to contributions to and distributions from a nonqualified annuity versus an IRA. If the parties want us to determine the tax consequences of a transaction by issuing a private letter ruling or if the parties want us to enter into a closing agreement to settle the tax consequences of the transaction, the procedures for submitting such a request to the Employee Plans Technical Office are in Revenue Procedure 2013-4, which is available online at www.irs.gov.

Given the factual issues of this situation, we think it might be worthwhile for

and his wife (or their representative) to request a pre-submission conference with our Employee Plans Technical Office in advance of a request for a ruling or closing agreement. (See section 12 of Rev. Proc. 2013-4 for details on how to do this.)

I hope this information is helpful. If you have any questions, please contact me at

Sincerely,

Lauson C. Green
Branch Chief, Qualified Plans Branch 1