



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

I am responding to your letter in which you request information on transfers to individual retirement arrangements (IRAs) under Section 402(c)(11) of the Internal Revenue Code (Code). Specifically, you ask whether a transfer, after the death of the surviving spouse, from a qualified retirement plan account maintained for the surviving spouse of a deceased employee, to an IRA established as an inherited IRA for the benefit of a beneficiary of the surviving spouse would be an "eligible rollover distribution."

Section 402(c)(4) of the Code defines an eligible rollover distribution as any distribution to an employee of all or any portion of the benefit to the credit of the employee in a qualified retirement plan. Certain kinds of distributions, not relevant here, are excluded. Distributions that are eligible rollover distributions can be rolled over or transferred to another qualified plan or IRA tax free.

Under Section 402(c)(11) of the Code, an individual who is a designated beneficiary of a deceased employee who was a plan participant and who is not the surviving spouse of the employee must be offered the opportunity to transfer to an IRA the deceased employee's benefits under the plan. If a transfer meets the conditions in Section 402(c)(11), the transfer is treated as an eligible rollover distribution. Section 401(a)(9)(E) defines a designated beneficiary as "any individual designated as a beneficiary by the employee."

Section 402(c)(11) applies only to a beneficiary who is an individual designated by the deceased employee (a designated beneficiary) and who is not the employee's surviving spouse. Accordingly, Section 402(c)(11) does not apply to a beneficiary of a surviving spouse or other designated beneficiary. Thus, a transfer to an inherited IRA for the benefit of a beneficiary of the surviving spouse would not be an eligible rollover

distribution because the beneficiary is not a designated beneficiary of the deceased employee.

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

Sincerely,

Victoria A. Judson
Associate Chief Counsel
Tax Exempt and Government Entities