



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

201503024

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

OCT 20 2014

U.I.L. 401.06 -01-- 408.03-00

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T.E.P. PARTS

Legend:

- Decedent A = XXXXXXXXXXXXXXXXXXXX
- Individual B = XXXXXXXXXXXXXXXXXXXX
- Individual C = XXXXXXXXXXXXXXXXXXXX
- Individual D = XXXXXXXXXXXXXXXXXXXX
- Individual E = XXXXXXXXXXXXXXXXXXXX
- Individual F = XXXXXXXXXXXXXXXXXXXX
- Custodian G = XXXXXXXXXXXXXXXXXXXX
- Custodian H = XXXXXXXXXXXXXXXXXXXX
- State I = XXXXXXXXXXXXXXXXXXXX
- Trust T = XXXXXXXXXXXXXXXXXXXX
- IRA X = XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
- IRA B-1 = XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

IRA B-2 = XXXXXXXXXXXXXXXXXXXX

IRA B-3 = XXXXXXXXXXXXXXXXXXXX

IRA B-4 = XXXXXXXXXXXXXXXXXXXX

IRA B-5 = XXXXXXXXXXXXXXXXXXXX

IRA B-6 = XXXXXXXXXXXXXXXXXXXX

IRA B-7 = XXXXXXXXXXXXXXXXXXXX

Date 1 = XXXXXXXXXXXXXXXXXXXX

Date 2 = XXXXXXXXXXXXXXXXXXXX

Date 3 = XXXXXXXXXXXXXXXXXXXX

Date 4 = XXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxxxxxx:

This is in response to your letter dated May 7, 2014, as supplemented by correspondence dated September 10, 2014, submitted on your behalf by your authorized representative, in which you request several rulings under section 401(a)(9) and 408 of the Internal Revenue Code ("Code").

You represent that you are the current trustee of Trust T, which Decedent A designated as the beneficiary of Decedent A's IRA X. You have divided IRA X into five separate IRAs, each labeled in the name of Trust T as beneficiary of Decedent A's IRA. You propose to distribute these five separate IRAs from the trust to new IRAs (the "Beneficiary IRAs"), each of which will be titled in Decedent A's name for the benefit of one of five beneficiaries of Trust T.

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Decedent A was a resident of State I. Decedent A died in 2013, several years after having reached age 70-½. Prior to his death, Decedent A established Trust T, a revocable trust which was amended from time to time prior to his death.

Decedent A owned IRA X, which was maintained by Custodian G. Decedent A designated Trust T as the primary beneficiary of IRA X.

You represent that Trust T is valid under the laws of State I and became irrevocable upon Decedent A's death. You further represent that copies of the trust agreement for Trust T were provided to Custodian G and Custodian H prior to May 7, 2014, the date of your submission.

Trust T provides for the payment of debts and expenses and certain distributions to Decedent A's spouse and to Individual B, all of which have been satisfied from assets other than the assets of Decedent A's IRA. The remainder of the assets of Trust T (the "Trust T Residue") is directed to be divided into as many equal shares as shall be necessary to create one share for each of Decedent A's children who survive Decedent A, and one share for each of Decedent A's deceased children who is survived by one or more descendants who survive Decedent A.

The terms of Trust T further direct that each such share be distributed outright to any such person who has attained thirty years of age at the time of such distribution.

You have represented that Decedent A was survived by Individuals B, C, D, E and F, who are all living children of Decedent A, and that Decedent A had no

children who predeceased him. You represent that each of Individuals B, C, D, E and F has attained age thirty (30).

After Decedent A's death, you, as successor trustee of Trust T, established IRA B-1 with Custodian G, in the name of Trust T as beneficiary of Decedent A's IRA. On or about Date 1, you transferred the assets of IRA X to IRA B-1.

You subsequently established IRAs B-2, B-3, B-4, and B-5 with Custodian G, each in the name of Trust T as beneficiary of Decedent A's IRA. Each such new IRA also indicated that it was for the benefit of one of Individuals C, D, E or F. On or about Date 2, you transferred one-fifth of the assets of IRA B-1 to each of IRAs B-2, B-3, B-4, and B-5. The remaining one fifth of the assets of IRA B-1 remained in IRA B-1, whose title was amended to add an indication that it is maintained for the benefit of Individual B.

On Date 3, the assets of IRA B-3 were transferred to a new IRA, IRA B-6, with Custodian H. Like IRA B-3, IRA B-6 was titled in the name of Trust T as beneficiary of Decedent's IRA, and also indicating that it is for the benefit of Individual D.

On Date 4, the assets of IRA B-4 were transferred to a new IRA, IRA B-7, with Custodian H. Like IRA B-4, IRA B-7 was titled in the name of Trust T as beneficiary of Decedent's IRA, and also indicating that it is for the benefit of Individual C.

You represent that all of the transfers described above were made through trustee-to-trustee transfers.

IRAs B-1, B-2, B-5, B-6, and B-7 are a part of the Trust T Residue. You propose to distribute IRAs B-1, B-2, B-5, B-6, and B-7 to the five beneficiaries of the Trust T Residue (one IRA to each beneficiary), outright and free of Trust T, by means of trustee-to-trustee transfers. Each such IRA would be transferred to a new IRA, titled in the name of Decedent A for the benefit of the applicable individual beneficiary of Trust T. You intend that each such distributed IRA be considered an "inherited IRA" within the meaning of section 408(d)(3)(C) of the Code, and that the required minimum distributions from each of such Beneficiary IRAs be determined based on the life expectancy of the oldest of Individuals B, C, D, E or F who remains a beneficiary on September 30 of the year following the Decedent's death.

Based on the above, you request the following rulings:

1. That Trust T constitutes a "see-through" trust within the meaning of section 1.401(a)(9)-4, Q&A-5, of the Income Tax Regulations (the "Regulations").

2. That the five Beneficiary IRAs will be inherited IRAs within the meaning of section 408(d)(3)(C) of the Code.
3. That sections 401(a)(9) and 408 of the Code do not preclude the division of Decedent A's IRA and the establishment of the five Beneficiary IRAs, each in the name of Decedent A for the benefit of one of the five beneficiaries of Trust T.
4. That the trustee-to-trustee transfers (i) from IRA X to IRA B-1; (ii) from IRA B-1 to IRA B-2, IRA B-3, IRA B-4 and IRA B-5; (iii) from IRA B-3 to IRA B-6; (iv) from IRA B-4 to IRA B-7; and (v) from IRA B-1, IRA B-2, IRA B-5, IRA B-6 and IRA B-7 to the five Beneficiary IRAs, will not constitute taxable distributions or payments, nor will they be considered attempted rollovers.
5. That the trustee-to-trustee transfers to the five Beneficiary IRAs will not cause the Beneficiary IRAs to lose their qualified status under section 408(a) of the Code.
6. That each of Individuals B, C, D, E and F may receive the required minimum distribution under section 401(a)(9) of the Code from his or her respective Beneficiary IRA using the life expectancy of the oldest of Individuals B, C, D, E and F who remains a beneficiary on September 30, 2014.

Section 408(a) of the Code provides the rules governing IRAs. Section 408(a)(6) of the Code provides that, under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) and the incidental death benefit requirements of section 401(a) shall apply to the distribution of the entire interest of an individual for whose benefit the trust is maintained.

Section 1.408-8, Q&A 1(b), provides that for purposes of applying the required minimum distribution rules in sections 1.401(a)(9)-1 through 1.401(a)(9)-9 and 1.401(a)9-6 for qualified plans, the IRA trustee, custodian, or issuer is treated as the plan administrator, and the IRA owner is substituted for the employee.

Under section 401(a)(9)(A) of the Code, 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 no 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) of the Code provides, in general, that if an employee dies after distribution of his interest has begun in accordance with section

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) of the Code provides, in relevant part, that for purposes of section 401(a)(9), the term "required beginning date" means April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2.

Section 401(a)(9)(E) of the Code provides that for purposes of section 401, the term "designated beneficiary" means any individual designated as a beneficiary by the employee.

Section 1.408-8 of the Regulations, Q&A-1(a), provides, in part, that IRAs are subject to the required minimum distribution rules under section 401(a)(9) of the Code and that in order to satisfy section 401(a)(9) of the Code for purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2003, the rules of section 1-401(a)(9)-1 through 1.401(a)(9)-9 of the Regulations must be applied, except as otherwise provided.

Section 1.401(a)(9)-4 of the Regulations, Q&A-1, provides, in relevant part, that a designated beneficiary is an individual who is designated as a beneficiary under the plan. An individual may be designated as a beneficiary under the plan either by the terms of the plan or, if the plan so provides, by an affirmative election by the employee (or the employee's surviving spouse) specifying the beneficiary. Under the Regulations, a designated beneficiary need not be specified by name in the plan in order to be a designated beneficiary so long as the individual who is to be the beneficiary is identifiable under the plan. The member of a class of beneficiaries capable of contraction or expansion will be treated as being identifiable if it is possible to identify the class member with the shortest life expectancy. Further, the passing of an employee's interest to an individual under a will or otherwise under applicable state law will not make that individual a designated beneficiary under section 401(a)(9)(E) unless that individual is designated as a beneficiary under the plan.

Section 1.401(a)(9)-4 of the Regulations, Q&A-3, provides that only individuals may be designated beneficiaries for purposes of section 401(a)(9). A person who is not an individual, such as the employee's estate or a charitable organization, may not be a designated beneficiary.

Section 1.401(a)(9)-4 of the Regulations, Q&A-4, 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 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.

Section 1.401(a)(9)-4 of the Regulations, Q&A-5, provides that where a trust is named as a beneficiary of an employee, the trust is not a designated beneficiary; however, beneficiaries of the trust with respect to the trust's interest in the employee's benefit may be treated as designated beneficiaries if the following requirements are met: (1) the trust is valid under state law, or would be but for the fact there is no corpus; (2) the trust is irrevocable or will, by its terms, become irrevocable upon the death of the employee; (3) the beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the employee's benefit are identifiable within the meaning of section 1.401(a)(9)-4 of the Regulations, Q&A-1, from the trust instrument; and (4) relevant documentation has been timely provided to the plan administrator.

Section 1.401(a)(9)-4, Q&A-6(b) of the Regulations provides, in relevant summary, that to meet the requirements set forth in Q&A 5, at a minimum, documentation sufficient to enable an IRA custodian to identify beneficiaries of an IRA must be provided by a trustee to the custodian by October 31 of the calendar year immediately following the calendar year in which the IRA owner died.

With respect to your first ruling request, you have represented that Trust T is valid under the laws of State I and was valid under the laws of State I as of the date of Decedent A's death, that Trust T became irrevocable upon Decedent A's death, and that a copy of the trust agreement for Trust T was provided to Custodian G, the custodian of IRA X, IRA B-1, IRA B-2, IRA B-3, IRA B-4, and IRA B-5 and to Custodian H, the custodian of IRA B-6 and IRA B-7, prior to October 31, 2014. The identity of each person entitled to receive any portion of Decedent A's IRA upon Decedent A's death is determinable under the provisions of the trust agreement for Trust T.

Therefore, with respect to your first ruling request, we conclude that Trust T constitutes a "see-through" trust described in section 1.401(a)(9)-4, Q&A-5, of the Regulations with respect to IRA X, IRA B-1, IRA B-2, IRA B-3, IRA B-4, IRA B-5, IRA B-6 and IRA B-7.

With respect to your next five ruling requests (numbered 2 through 6), section 408(d)(1) of the Code provides generally that, in accordance with the rules of Code section 72, amounts paid or distributed from an IRA are included in gross income by the payee or distributee.

Section 408(d)(3)(A) of the Code 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 IRA 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 the individual receives the payment or distribution, or (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) 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 generally may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3) of the Code).

Section 408(d)(3)(C) of the Code provides, generally, that amounts from an "inherited" IRA cannot be rolled over into another IRA.

Section 408(d)(3)(C) of the Code provides that an IRA is an inherited IRA if the individual for whose benefit the IRA is maintained acquired the IRA by reason of the death of another individual, unless the acquiring individual is the surviving spouse of such individual.

Section 1.401(a)(9)-4 of the Regulations, Q&A-5(c), provides in relevant part that the separate account rules under section 1.401(a)(9)-8, Q&A-2 are not available to beneficiaries of a trust with respect to the trust's interest in the employee's benefit.

Revenue Ruling 78-406, 1978-2 C.B. 157 ("Rev. Rul. 78-406"), 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 distributee, as those terms are used in section 408(d) of the Code. Furthermore, such a transfer does not constitute a rollover distribution. Rev. Rul. 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.

With respect to your second ruling request, each of the five Beneficiary IRAs, which will be titled in Decedent A's name for the benefit of one of Individuals B, C, D, E and F, will have been acquired by such individuals by reason of Decedent A's death. None of Individuals B, C, D, E and F is Decedent A's surviving spouse.

Therefore, with respect to your second ruling request, we conclude that the five Beneficiary IRAs, to be created by means of trustee-to-trustee transfers from IRA B-1, IRA B-2, IRA B-5, IRA B-6 and IRA B-7, will be inherited IRAs within the meaning of section 408(d)(3)(C) of the Code.

With respect to your third ruling request, as a result of the transactions described herein, Decedent A's IRA will be divided into five separate IRA's, each for the benefit of a different beneficiary. Although the Regulations under section 401(a)(9) of the Code preclude separate account treatment where amounts pass through a trust, neither the Code nor the Regulations preclude the posthumous division of a decedent's IRA into more than one IRA. Therefore, with respect to

your third ruling request, we conclude that sections 401(a)(9) and 408 of the Code do not preclude the division of Decedent A's IRA and the establishment of the five Beneficiary IRAs, each in the name of Decedent A for the benefit of a one of Individuals B, C, D, E and F.

With respect to your fourth and fifth ruling requests, section 408(d)(1) of the Code provides that, in general, amounts distributed or paid out of an IRA are taxable to the payee or distributee. Section 408(d)(3)(C) of the Code provides that amounts from "inherited" IRAs may not be rolled over to another IRA.

However, as noted above, a trustee-to-trustee transfer described in Rev. Rul. 78-406 does not constitute a payment or distribution. Such a transfer may be accomplished after the death of the IRA holder on behalf of the beneficiaries of a decedent's IRA.

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

- The trustee to-trustee transfers from IRA X to IRA B-1, from IRA B-1 to IRA B-2, IRA B-3, IRA B-4 and IRA B-5, from IRA B-3 to IRA B-6, from IRA B-4 to IRA B-7, and the trustee-to trustee transfers from IRA B-1, IRA B-2, IRA B-5, IRA B-6 and IRA B-7 to the five Beneficiary IRAs, will not constitute taxable distributions or payments, nor will they be considered attempted rollovers.
- The trustee-to-trustee transfers to IRA B-1, IRA B-2, IRA B-3, IRA B-4, IRA B-5, IRA B-6 and IRA B-7, and to each of the five Beneficiary IRAs, will not cause such IRAs to lose their qualified status under Section 408(a) of the Code.

With respect to your sixth ruling request, section 1.401(a)(9)-4 of the Regulations, Q&A-4, provides in relevant part that, in general, in order to be a designated beneficiary, an individual must be a beneficiary as of the date of death. The employee's designated beneficiary 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 employee's death.

Section 1.401(a)(9)-4 of the Regulations, Q&A-5(c), provides that if the trust has more than one beneficiary, the rules under section 1.401(a)(9)-5, Q&A-7, determine which beneficiary's life expectancy shall be used to determine the distribution period.

Section 1.401(a)(9)-5 of the Regulations, Q&A-5(a), provides, in relevant part, that if an employee dies after distribution of his interest has begun on or after the employee's required beginning date, in order to satisfy section

401(a)(9)(B)(i) of the Code, the applicable distribution period for distribution calendar years after the distribution calendar year containing the employee's date of death is either (1) if the employee has a designated beneficiary as of the date determined under A-4 of section 1.401(a)(9)-4, the longer of (i) the remaining life expectancy of the employee's designated beneficiary; and (ii) the remaining life expectancy of the employee; or (2) if the employee does not have a designated beneficiary as of the date determined under A-4 of section 1.401(a)(9)-4, the remaining life expectancy of the employee.

Section 1.401(a)(9)-5 of the Regulations, Q&A-7(a), states that if more than one individual is a designated beneficiary, the beneficiary with the shortest life expectancy will be the designated beneficiary for purposes of determining the applicable distribution period.

Section 1.401(a)(9)-9 of the Regulations, Q&A-1, sets forth the "Single Life Table," to be used to determine the life expectancy of an individual.

As we concluded with respect to your first ruling request, Trust T qualifies as a "see-through trust" described in section 1.401(a)(9)-4, Q&A 5 of the Regulations. You represent that Individuals B, C, D, E, and F are the beneficiaries of Trust T's interest in Decedent A's IRA. Therefore, these beneficiaries may be treated as designated beneficiaries of Decedent A's IRA.

Therefore, with respect to your sixth ruling request, we conclude that Individuals B, C, D, E and F may each receive the required minimum distribution under section 401(a)(9) of the Code from his or her respective Beneficiary IRA using the life expectancy of the oldest of such individuals who remains a beneficiary of Trust T on September 30, 2014.


The rulings in this letter are based on the assumption that IRA X, IRA B-1, IRA B-2, IRA B-3, IRA B-4, IRA B-5, IRA B-6, IRA B-7, and the Beneficiary IRAs to be established, will meet the requirements of section 408(a) of the Code at all relevant times. Furthermore, this letter ruling rests on the assumption that Trust T is valid under the laws of State I as represented, and that the steps taken and proposed to be taken by you as Trustee of Trust T are pursuant to and permissible under Trust T and the laws of State I.

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

A copy of this letter ruling is being sent to your authorized representative pursuant to a power of attorney on file in this office.

If you have any questions concerning this letter, please contact xxxxxxxx, xxxxxxxxxxxxxxxx, at xxxxxxxxxxxxxxxx. All correspondence should be addressed to SE:T:EP:RA:T3.

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling
Notice 437

CC: xxxxxxxxxxxxxxxx