

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

Decedent and Taxpayer A were married in 2004 and lived in State A, a community property state. Taxpayer B is the child of Decedent and Taxpayer A. Decedent named Taxpayer B as the sole beneficiary of his three IRAs. Decedent died on Date 1.

After Decedent's death, Taxpayer A filed a claim against Taxpayer C, the estate of Decedent, for Taxpayer A's one-half interest in the community property Decedent and Taxpayer A owned. Taxpayer A and Taxpayer C negotiated a settlement under which Taxpayer A's community property interest in the estate was valued at Amount 1. A state court in State A approved the settlement and ordered that the custodian of the IRAs "assign [Amount 1] of the inherited IRA for [Taxpayer B] to [Taxpayer A] as a spousal rollover IRA."

Based on the foregoing facts and representations, you have requested rulings that:

- 1) Amount 1 of the IRA of Decedent naming Taxpayer B as sole beneficiary should be classified as Taxpayer A's community property interest; then
- 2) Taxpayer A may be treated as a payee of the inherited IRA for Taxpayer B; then
- 3) The custodian of the inherited IRA for Taxpayer B can distribute Amount 1 to Taxpayer A in the form of a surviving spouse rollover IRA; and
- 4) The distribution of Amount 1 from the inherited IRA for Taxpayer B to Taxpayer A will not be considered a taxable event.

Section 408(d)(1) provides that "any amount paid or distributed out of an individual retirement plan shall be included in the gross income of the payee or distributee."

Section 408(d)(3) permits rollovers by "the individual for whose benefit the [IRA] is maintained." Section 408(d)(3)(C) provides that rollovers are not permitted from inherited IRAs. Section 408(d)(3)(C)(ii) defines inherited IRAs as IRAs where (i) the individual for whose benefit the IRA is maintained acquired the IRA by reason of the death of another individual, and (ii) such individual was not the surviving spouse of such other individual.

Section 408(g) provides that § 408 "shall be applied without regard to any community property laws."

In regard to the first ruling request, whether an amount of the inherited IRA for Taxpayer B is classified as Taxpayer A's community property interest is a matter of state property law and not a matter of federal tax law. Accordingly, we decline to issue the requested ruling.

In regard to the second, third, and fourth ruling requests, Taxpayer B was the named beneficiary of the IRA of Decedent and the IRA has been retitled as an inherited IRA for

Taxpayer B. Section 408(g) provides that section 408 shall be applied without regard to any community property laws, and, therefore, section 408(d)'s distribution rules must be applied without regard to any community property laws. Accordingly, because Taxpayer A was not the named beneficiary of the IRA of Decedent and because we disregard Taxpayer A's community property interest, Taxpayer A may not be treated as a payee of the inherited IRA for Taxpayer B and Taxpayer A may not rollover any amounts from the inherited IRA for Taxpayer B (and therefore any contribution of such amounts by Taxpayer A to an IRA for Taxpayer A will be subject to the contribution limits governing IRAs). Additionally, because Taxpayer B is the named beneficiary of the IRA of Decedent and because we disregard Taxpayer A's community property interest, any "assignment" of an interest in the inherited IRA for Taxpayer B to Taxpayer A would be treated as a taxable distribution to Taxpayer B. Therefore, the order of the state court cannot be accomplished under federal tax law.

This ruling letter expresses no opinion on the property rights of the parties under state law, and only provides a ruling on the federal tax law impact on the specific facts presented.

The ruling contained in this letter is based upon information and representations submitted by the taxpayers and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Additionally, no opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited by others 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 yours,

Cathy Pastor
Senior Counsel,
Qualified Plans Branch 4
(Tax Exempt & Government Entities)