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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:TEGE:EB:QP3

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Date:

June 09, 2017

Legend

Decedent:

Surviving Spouse:

IRA X:

Church A:

State Court B:

State C:

Trust X:

Dear :

This responds to your request for rulings under section 408(d)(1) and 408(d)(3) of the Internal Revenue Code (the "Code"), as supplemented by correspondence dated December 22, 2016, and March 9, 2017, with regard to an individual retirement account (IRA).

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

Decedent maintained IRA X and died after reaching age 70-1/2. Decedent designated his estate as the beneficiary of IRA X, and upon his death, IRA X became a part of

Decedent's residuary estate. Decedent's wife, Surviving Spouse, is the executor of Decedent's estate. Under the terms of Decedent's will, his entire residuary estate would be allocated to Trust X.

Trust X had been established during Decedent's lifetime, with Decedent's daughter as trustee, but had not been funded. Trust X required that following Decedent's death, all income of the trust be paid to Surviving Spouse. Trust X further permitted payments from the principal of the trust as necessary for Surviving Spouse's health, support, and maintenance. Upon Surviving Spouse's death, five percent of the principal of Trust X would be distributed to Church A, and the balance would be distributed to the living issue of Decedent and of Surviving Spouse.

Following the death of Decedent, Surviving Spouse and Decedent's three children petitioned State Court B to terminate Trust X and to distribute the assets of Decedent's estate to Surviving Spouse. Relying on provisions of the law of State C that permit termination of a trust in certain circumstances, State Court B issued an order (the "Order") on December 7, 2016, that terminated Trust X and ordered the executor of Decedent's estate to pay all probate funds to Surviving Spouse.

You have requested the following rulings:

1. That the proceeds of IRA X to be received by Surviving Spouse will be treated as being paid directly from the IRA to her, and as a result, she will be treated as the payee or distributee of IRA X for purposes of section 408(d)(1).
2. That IRA X will not be treated as an inherited IRA within the meaning of Section 408(d)(3) with respect to Surviving Spouse.
3. That Surviving Spouse is eligible to roll over the distribution from IRA X into an IRA set up and maintained in her name.

Section 408(d)(1) provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3)(A) 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 may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(C)(i) provides that in the case of an inherited IRA, section 408(d)(3) shall not apply to any amount received by an individual from such account (and no amount transferred from such account to another IRA shall be excluded from income by reason of such transfer), and such inherited account shall not be treated as an IRA for purposes of determining whether any other amount is a rollover contribution.

Section 408(d)(3)(C)(ii) provides that the term “inherited IRA” means an IRA acquired by an individual, other than the IRA owner’s spouse, as a result of the death of the IRA owner.

Section 408(d)(3)(D) permits the rollover of a portion of the amount paid or distributed from an IRA, providing that if the amount paid or distributed out of an IRA would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan, such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan within the applicable 60 day period.

Section 408(d)(3)(E) provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6) (regarding required minimum distributions under section 401(a)(9)).

In this case, Decedent’s estate was designated as the beneficiary of IRA X. As a result of the Order, Surviving Spouse will obtain her interest in the proceeds of IRA X as the sole beneficiary of Decedent’s estate, not as a beneficiary of Trust X, and is required by the Order to pay the proceeds of IRA X to herself. Accordingly, for purposes of section 408(d)(3)(A), Surviving Spouse is effectively the individual for whose benefit IRA X is maintained. Thus, when Surviving Spouse receives a distribution of the proceeds of IRA X, she may roll over the distribution (other than any amounts required to have been distributed or to be distributed in accordance with the required minimum distribution rules of section 401(a)(9)) into an IRA established and maintained in her own name, provided all other applicable rules of section 408(d)(3) are met.

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

1. Surviving Spouse will be treated for purposes of section 408(d)(3)(A) as a payee or distributee of the proceeds she receives from IRA X;
2. IRA X will not be treated as an inherited IRA within the meaning of section 408(d)(3) with respect to Surviving Spouse; and
3. Surviving Spouse is eligible to roll over the proceeds from IRA X to an IRA set up and maintained in her own name, pursuant to section 408(d)(3)(A)(i); provided that all other requirements for rollovers under section 408(d)(3) are satisfied.

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

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2017-1, 2017-1 I.R.B. 1, § 7.01(15)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2017-1, § 11.05.

This ruling is based on the assumption that the order from State Court B was in accordance with state law and was effective under state law to terminate Trust X and direct the executor of Decedent's estate to pay the IRA to Surviving Spouse.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

John Ricotta
Branch Chief, Qualified Plans 3
(Tax Exempt & Government Entities)