

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

In Re: Private Letter Ruling

Refer Reply To:

CC:TEGE:EB:QP4

PLR-113758-18

Date:

October 10, 2018

Decedent =
Taxpayer =
Son =
Grandchild A =
Grandchild B =
IRA 1 =

Trust =
Trustee =
State =
Date 1 =
Date 2 =
Date 3 =
Date 4 =

Dear :

This letter responds to your request dated April 12, 2018, as supplemented by correspondence dated July 26, 2018, in which several rulings are requested under section 408(d)(3) of the Internal Revenue Code.

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

Decedent was married to Taxpayer until his death on Date 1, at which time Decedent was over 70 ½ years old and a resident of State. Decedent was survived by Taxpayer, and his son, Son, and two grandchildren, Grandchild A and Grandchild B.

At the time of his death, Decedent owned an individual retirement account, IRA 1. The 100% beneficiary of IRA 1 was Trust, and no contingent beneficiary was named.

On Date 2 (within nine months after the death of Decedent), Trustee executed a "Renunciation and Qualified Disclaimer," to disclaim any and all interest in IRA 1 to which Trust may have been entitled. Also on Date 2, Son executed a "Renunciation and Qualified Disclaimer," to disclaim any and all interest in IRA 1 to which Son may have been entitled. On Date 3 (within nine months after the death of Decedent), Grandchild A executed a "Renunciation and Qualified Disclaimer," to disclaim any and all interest in IRA 1 to which Grandchild A may have been entitled. On Date 4 (within nine months after the death of Decedent), Grandchild B executed a "Renunciation and Qualified Disclaimer," to disclaim any and all interest in IRA 1 to which Grandchild B may have been entitled. Your request states that the above disclaimers (collectively, the Disclaimers) will qualify as qualified disclaimers under section 2518.

You have represented that, under the applicable laws of State, the Disclaimers result in IRA 1 passing to Decedent's estate (because there is no contingent beneficiary of IRA 1) and being governed by Decedent's will. Additionally, you have represented that, under the applicable laws of State, the Disclaimers result in Taxpayer being entitled to IRA 1 as beneficiary of Decedent's estate.

You have stated that Taxpayer wishes to distribute IRA 1 to herself, as sole beneficiary of IRA 1 under Decedent's estate, and roll over such distribution into an individual retirement account in her own name.

Based on the above, you, through your authorized representative, request the following letter rulings:

1. Taxpayer, as Decedent's spouse, will be treated as having acquired IRA 1 directly from Decedent, and not from Decedent's estate or Trust.
2. Taxpayer is eligible to roll over IRA 1 to one or more IRAs established and maintained in her own name pursuant to section 408(d)(3)(A)(i), provided that the rollover occurs no later than the sixtieth day following the day the proceeds of IRA 1 are distributed.
3. Taxpayer will not be required to include in her gross income for federal income tax purposes for the calendar year in which the distribution and rollover occur the amount distributed from IRA 1 and timely rolled over into the IRAs established and maintained in Taxpayer's name.

With respect to your ruling requests, 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) provides that section 408(d)(1) does not apply to a rollover contribution if such contribution satisfies the requirements of sections 408(d)(3)(A) and (d)(3)(B).

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 account 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 he receives the payment or distribution; or (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan 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 one-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 his gross income because of the application of section 408(d)(3).

Section 408(d)(3)(C)(i) provides, in pertinent part, 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 gross 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 an IRA will be treated as inherited if the individual for whose benefit the account is maintained acquired such account by reason of the death of another individual, and such individual was not the surviving spouse of such other individual.

Section 408(d)(3)(E) provides that section 408(d)(3) does not apply any amount to the extent that such amount is a required minimum distribution described in section 408(a)(6).

In the present case, although Trust was designated as the beneficiary of IRA 1, Trust disclaimed its interest in IRA 1, and IRA 1 passed to Decedent's estate. Additionally, Son, Grandchild A, and Grandchild B disclaimed each of their interests in IRA 1, resulting in Taxpayer being entitled to IRA 1 as the beneficiary of Decedent's estate. Because Taxpayer is entitled to IRA 1 as the beneficiary of Decedent's estate, then, for purposes of applying section 408(d)(3)(A) to IRA 1, Taxpayer is effectively the individual for whose benefit IRA 1 is maintained. Accordingly, if Taxpayer receives a distribution of the proceeds of IRA 1, she may roll over the distribution (other than those required

minimum distribution amounts required to have been distributed or to be distributed in accordance with section 401(a)(9)) into an IRA established and maintained in her name.

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

1. For purposes of section 408(d)(3), Taxpayer, as Decedent's spouse, will be treated as having acquired IRA 1 directly from Decedent, and not from Decedent's estate or Trust.
2. Taxpayer is eligible to roll over IRA 1 to one or more IRAs established and maintained in her own name pursuant to section 408(d)(3)(A)(i), provided that the rollover occurs no later than the sixtieth day following the day the proceeds of IRA 1 are distributed.
3. Taxpayer will not be required to include in her gross income for federal income tax purposes for the calendar year in which the distribution and rollover occur the amount distributed from IRA 1 and timely rolled over into the IRAs established and maintained in Taxpayer's name, provided the rollover contribution meets the requirements of section 408(d)(3).

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. This ruling letter is based on the assumption that all actions by Trustee discussed or referenced in this letter comply with the laws of State.

This ruling is directed only to the taxpayer requesting 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 penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2018-1, 2018-1 I.R.B. 1, § 7.01(16)(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. 2018-1, § 11.05.

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

Sincerely,

Cathy V. Pastor
Senior Counsel
Qualified Plans, Branch 4
Tax Exempt & Government Entities

cc: