

Internal Revenue Service

Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:EEE:EB:QP1
PLR-125312-20

Date:
March 26, 2021

Decedent A =
State S =
Trust T =

IRA X =

Date 1 =
Date 2 =
Date 3 =
Year 1 =

Dear :

This is in response to your request dated October 22, 2020, in which your authorized representative requested a private letter ruling on behalf of Trust T regarding an Individual Retirement Account (IRA) under section 408 of the Internal Revenue Code for which Trust T was named as a beneficiary.

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

Decedent A assumed ownership of IRA X upon Decedent A's spouse's death. On Date 1, Decedent A named Trust T as the beneficiary of IRA X. Trust T is valid under the laws of State S and became irrevocable upon Decedent A's spouse's death. On Date 2, Decedent A exercised a power of appointment over Trust T naming each of Decedent A's children as trustees and beneficiaries of Trust T. Decedent A died on Date 3. Upon Decedent A's death, IRA X became an inherited IRA for the benefit of Trust T.

You represent that in Year 1, within months after Decedent A's death, the custodian of IRA X advised Trust T's trustees that they could not trade stocks in IRA X and that the assets of IRA X would have to be transferred to another account in order to trade stocks. Following the custodian's advice, Trust T's trustees transferred substantially all of IRA X's assets to a non-IRA account held by the custodian for the benefit of Trust T.

Several months have passed since the transfer of IRA X's assets to the non-IRA account. You request that the transfer be permitted to be reversed, so that the assets in the non-IRA account may be transferred to an inherited IRA account for the benefit of Trust T.

Taxpayer is requesting the following rulings:

1. Trust T may transfer IRA X's assets currently held in the non-IRA account into an inherited IRA for the benefit of Trust T, either with the present custodian or a different custodian.
2. Trust T will not be required to include in gross income for federal income tax purposes, for Year 1 in which the distribution from IRA X occurred and for the year in which the subsequent transfer is made pursuant to ruling number 1, any portion of the amounts transferred from IRA X to an inherited IRA.
3. The transfer into an inherited IRA pursuant to ruling numbers 1 and 2 can be made to any inherited IRA and does not need to be made back into IRA X.

Applicable Law

Section 408(a) states that the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets certain requirements.

Section 408(d)(1) provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA is 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, in part, that section 408(d)(1) does not apply to an amount paid or distributed out of an IRA to the individual for whose benefit the account is maintained if the entire amount received is paid into an IRA for the benefit of that individual not later than the 60th day after the day on which the individual receives the payment or distribution.

Section 408(d)(3)(C)(i) provides, in part, that, in the case of an inherited IRA, section 408(d)(3) does not apply to any amount received by an individual from that inherited IRA.

Section 408(d)(3)(C)(ii) provides that an IRA is treated as an inherited IRA if the individual

for whose benefit the IRA is maintained acquired the IRA by reason of the death of another individual, and the individual is not the surviving spouse of the other individual.

Section 1.408-2(a) provides, in part, that an IRA may be established and maintained by an individual, by an employer for the benefit of his employees, or by an employee association for the benefit of its members.

Section 1.408-2(b)(8) provides that the term “beneficiaries” on whose behalf an individual retirement account is established includes (except where the context indicates otherwise) the estate of the individual, dependents of the individual, and any person designated by the individual to share in the benefits of the account after the death of the individual.

Section 1.408-4(a)(1) provides, in general, that any amount actually paid or distributed from an individual retirement account shall be included in the gross income of the payee or distributee for the taxable year in which the payment or distribution is received.

Section 7701(a)(1) provides that the term “person” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

Revenue Ruling 78-406, 1978-2 C.B. 157, provides that the trustee-to-trustee transfer of funds from one IRA maintained for the benefit of an individual to another IRA maintained for the benefit of the same individual does not constitute a payment or distribution includible in gross income.

Analysis

With regard to your first ruling request, upon Decedent A’s death IRA X became an inherited IRA for the benefit of Trust T. Assets in an inherited IRA for the benefit of a trust are not permitted to be rolled over under section 408(d)(3). The only permitted method of transferring assets from an inherited IRA to another inherited IRA is via a trustee-to-trustee transfer, which requires a direct transfer from one IRA to another IRA. Therefore, once the assets have been distributed from an inherited IRA, there is no permitted method of transferring them back into an IRA. In this case, the assets of IRA X were transferred to a non-IRA account. Accordingly, the assets may not now be transferred to an IRA account.

With regard to your second ruling request, section 408(d) provides that, except with respect to investment in the contract, assets distributed out of an inherited IRA are included in gross income. Accordingly, Trust T will be required to include in gross income for Year 1, the year in which the distribution from IRA X occurred, any portion of the amounts transferred from IRA X that is not investment in the contract.

With regard to your third ruling request, as also set forth in the first ruling, Trust T may not transfer IRA X’s assets currently held in the non-IRA account into any IRA account.

This letter ruling assumes that IRA X satisfied the requirements of section 408 at all times relevant before the transfer of IRA X's assets to the non-IRA account.

The rulings contained in this letter ruling are based upon information and representations submitted by Trust T and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2021-1, 2021-1 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. 2021-1, § 11.05.

Except as expressly provided above, no opinion is expressed or implied concerning the federal income tax consequences of any other aspects of any transaction or item of income described in this letter ruling.

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited 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,

/s/ Neil Sandhu

Neil Sandhu
Senior Technician Reviewer
Qualified Plans Branch 1
Office of the Associate Chief Counsel
(Employee Benefits, Exempt Organizations,
and Employment Taxes)

cc: