

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

In Re: Private Letter Ruling
Request

Refer Reply To:
CC:EEE:EB:QP3
PLR-120482-22

Date:
March 08, 2023

Legend

Decedent A =
Taxpayer B =
IRA X =
Custodian =

Dear :

This is in response to a request for a letter ruling under sections 408(d)(1) and 408(d)(3) of the Internal Revenue Code (Code), submitted on your behalf by your authorized representative on October 12, 2022, and updated by correspondence dated December 20, 2022.

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

Decedent A died testate as a resident of the on
Decedent A was born on , and was 78 years old at the time of death.
Decedent A was survived by his spouse, Taxpayer B. Taxpayer B was born on , and was 74 years old at the time of Decedent A's passing.

At the time of Decedent A's death, Decedent A was the owner of an Individual Retirement Arrangement (IRA), IRA X, maintained by Custodian.

Decedent A's Last Will and Testament names Taxpayer B as Decedent A's sole personal representative. Decedent A's will was admitted to probate and Taxpayer B was appointed to be the sole personal representative of Decedent A's estate with the sole authority to administer such estate.

Decedent A did not designate a beneficiary of IRA X, and the IRA X agreement with Custodian provides that if no beneficiary is designated for IRA X, the account balance in IRA X remaining at Decedent A's death is payable to Decedent A's estate.

Decedent A's will leaves Decedent A's entire residual estate, including IRA X, solely to Taxpayer B.

At all times after the death of Decedent A, IRA X has been maintained in the name of Decedent A. IRA X has at all times been maintained as a traditional IRA. At the time of passing, Decedent A had received all distributions required under section 401(a)(9).

In Taxpayer B's capacity as the sole personal representative of Decedent A's estate, Taxpayer B intends to (i) direct the payment of IRA X to Taxpayer B, and (ii) direct the payment to Decedent A's Estate's sole residual beneficiary, Taxpayer B. Taxpayer B intends to roll over the proceeds into an IRA maintained in Taxpayer B's name, within 60 days of the date the proceeds are paid.

Taxpayer represents that IRA X has satisfied the requirements of section 408 at all relevant times, and any rollover IRA or IRAs set up by Taxpayer B will satisfy the requirements of section 408 at all relevant times.

Requested Rulings

Based on the above facts and representations, you, through your authorized representative, request the following rulings:

1. Taxpayer B will be treated for the purposes of section 408(d)(1) and 408(d)(3) as the payee or distributee of the proceeds from IRA X.
2. IRA X will not be treated as an inherited IRA, within the meaning of section 408(d)(3)(C)(ii), with respect to Taxpayer B.
3. Taxpayer B will be eligible to roll over the proceeds from IRA X into an IRA or IRAs set up and maintained in Taxpayer B's name, as long as the rollover occurs no later than the 60th day after the date the proceeds are paid to Decedent A's estate.
4. Taxpayer B will not be required to include in Taxpayer B's gross income any portion of the IRA X proceeds timely rolled over to an IRA set up and maintained in Taxpayer B's name.

Law

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 in 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 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 408A(d)(3) contains a special rule that applies for a rollover to a Roth IRA from a non-Roth IRA, which provides in part that, notwithstanding section 408(d)(3), there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution.

Analysis

Generally, if a decedent's IRA proceeds pass through a third party (for example, an estate) and then are distributed to the decedent's surviving spouse, the surviving spouse will be treated as having received the proceeds from the third party and not from

the decedent's IRA. Thus, generally, a surviving spouse will not be eligible to roll over the IRA proceeds into the surviving spouse's own IRA.

However, the general rule will not apply in a situation in which the decedent's estate is the beneficiary of a decedent's IRA proceeds, and the decedent's surviving spouse is the sole administrator of the estate and the sole beneficiary of the IRA proceeds that pass through the estate. Under these circumstances, no third party can prevent the surviving spouse from receiving the proceeds of the IRA and from rolling over the proceeds into the surviving spouse's own IRA.

Under the facts presented, the IRA X account balance remaining at Decedent's A death is payable to Decedent A's estate under the terms of Decedent A's will. Taxpayer B, Decedent A's surviving spouse, is the sole personal representative of Decedent A's estate and the sole residual beneficiary under Decedent A's will. As personal representative, Taxpayer B can cause the IRA X proceeds to be paid to Decedent A's estate and then to Taxpayer B as Decedent A's estate's residual beneficiary. Accordingly, for purposes of section 408(d)(3)(A), Taxpayer B is effectively the individual for whose benefit IRA X is maintained. Thus, if Taxpayer B receives the IRA X proceeds, Taxpayer B may roll over the proceeds (other than any amounts required to be distributed in accordance with the required minimum distribution rules of section 401(a)(9)) into one or more IRAs set up and maintained in Taxpayer B's name, provided that all other applicable rules of section 408(d)(3) are satisfied.

Therefore, with respect to your first ruling request, the IRA X proceeds that are paid to Decedent A's estate, timely received by Taxpayer B, and timely rolled over to an IRA or IRAs set up and maintained in Taxpayer B's name may be treated as paid or distributed to Taxpayer B under sections 408(d)(1) and 408(d)(3).

With respect to your second ruling request, Taxpayer B is the surviving spouse of Decedent A. Therefore, IRA X is not treated as an inherited IRA for purposes of section 408(d)(3).

With respect to your third ruling request, as concluded above, Taxpayer B may roll over the IRA X proceeds paid to Decedent A's estate and then received by Taxpayer B to an IRA or IRAs set up and maintained in Taxpayer B's name, provided that the rollover occurs no later than the 60th day after the proceeds are paid into Decedent A's estate.

With respect to your fourth ruling request, except in the case of the rollover to a Roth IRA, Taxpayer B will not be required to include in Taxpayer B's gross income any portion of the IRA X proceeds timely rolled over to an IRA set up and maintained in Taxpayer B's name.

Rulings

Thus, with respect to your ruling requests, we conclude as follows:

1. Taxpayer B will be treated for purposes of sections 408(d)(1) and 408(d)(3) as the payee or distributee of the proceeds from IRA X.
2. IRA X will not be treated as an inherited IRA, within the meaning of section 408(d)(3)(C)(ii), with respect to Taxpayer B.
3. Taxpayer B will be eligible to roll over the proceeds from IRA X into an IRA or IRAs set up and maintained in Taxpayer B's name, as long as the rollover occurs no later than the 60th day after the date the proceeds are paid to the personal representative of Decedent A's estate.
4. Except in the case of a rollover to a Roth IRA, Taxpayer B will not be required to include in Taxpayer B's gross income any portion of the IRA X proceeds timely rolled over to an IRA set up and maintained in Taxpayer B's name.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer B and accompanied by a penalties of perjury statement executed by Taxpayer B, as specified in Rev. Proc. 2023-1, 2023-1 I.R.B. 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for rulings, 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. 2023-1, § 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 is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code 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,

John T. Ricotta
Branch Chief
Qualified Plans Branch 3
Office of the Associate Chief Counsel
(Employee Benefits, Exempt Organizations, and
Employment Taxes)

cc: