Internal Revenue Service

Department of the Treasury

200036047

Washington, DC 20224

UIL: 401.06-00
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Contact Person:

Telephone Number:

In Reference to:
T:EP:RA:T3

Date:
JUN 12 2000

LEGEND:

Taxpayer A:

Taxpayer B:

Taxpayer C:

Taxpayer D:

Taxpayer E:

Taxpayer F:

Taxpayer G:

Taxpayer H:

Taxpayer I:

Taxpayer J:

Company K:

Sum 1:

Sum 2:

Sum 3:

Sum 4:

Date 1:

Date 2:

Date 3:

Date 4:

Date 5:

IRA X:

Dear Mister :

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This is in response to the letter, as supplemented by correspondence dated , in which you, through your authorized representative, request several letter rulings under section 401(a)(9) of the Internal Revenue Code. The following facts and representations support your ruling request.

Taxpayer A, whose date of birth was Date 1, attained age 70 ½ on Date 2. Taxpayer A maintains an individual retirement arrangement, IRA X, with Company K. On Date 3, which was prior to the date on which Taxpayer A attained his "required beginning date" as that term is defined in Code section 401(a)(9)(C), Taxpayer A hand-delivered nine letters to Company K directing Company K to divide IRA X into nine sub-IRAs to be maintained for the benefit of Taxpayers B through J. Two of the nine sub-IRAs were to be in the amount of Sum 1; one was to be in the amount of Sum 2; three were to be in the amount of Sum 3; two were to be in the amount of Sum 4; and the ninth sub-IRA, of which Taxpayer J, Taxpayer A's wife, was named beneficiary, was to hold the remaining balance of IRA X.

On Date 4, which was three days after Date 3, and which was also prior to Taxpayer A's Code section 401(a)(9)(C) required beginning date, Taxpayer A signed beneficiary designations with respect to the nine sub-IRAs referenced above. Each of the beneficiary designations provided that Taxpayer A elected to receive distributions from the appropriate sub-IRA based on his and the sub-IRA's beneficiary's joint life expectancy with Taxpayer A's life expectancy not being recalculated. Additionally, Taxpayer A indicated that Code section 401(a)(9) required distributions were to be made in accordance with the minimum distribution incidental benefit requirement where necessary. Finally, with respect to the sub-IRA set up for the benefit of Taxpayer J, Taxpayer A's wife, an election was made to not recalculate Taxpayer J's life expectancy.

Taxpayer A attained his Code section 401(a)(9)(C) required distribution date on April 1, 1999.

In compliance with the instructions of Taxpayer A, Company K either has created or will create nine sub-accounts effective on Date 5, which is the initial valuation date after Date 3. Each sub-account either has been or will be credited with its pro-rata share of gains and losses as of said Date 5.

The creation of the sub-accounts did not and will not involve distributions, as that term is used in Code section 408(d), of amounts from IRA X.

Taxpayer A has received and will continue to receive Code section 401(a)(9) required distributions in accordance with his Date 4 beneficiary designations.

The provisions of IRA X, in pertinent part, provide that an IRA holder, and his spouse, may elect to not recalculate his, her, or their life expectancy (ies).

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

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1. That Taxpayer A timely designated Taxpayers B through J as the beneficiaries of the nine sub-IRAs set up pursuant to his instructions of Date 3;

2. that Taxpayer A timely elected to not recalculate his life expectancy for purposes of Code section 401(a)(9) with respect to distributions made or to be made from each of the nine sub-IRAs set up pursuant to his Date 3 instructions;

3. that Taxpayer A may use his and the appropriate designated beneficiary's joint life expectancy, subject to the minimum distribution incidental benefit requirement, if appropriate, in determining his required minimum distributions from each of the nine sub-IRAs; and

4. that, commencing in the calendar year following the calendar year of Taxpayer A's death, each of his designated beneficiaries may receive required distributions from the sub-IRA set up and maintained for his/her benefit over the designated beneficiary's life expectancy and the remaining life expectancy of Taxpayer A, if any.

With respect to your ruling requests, section 408(a)(6) of the Code provides that, under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) and the incidental death benefit requirements of section 401(a) shall apply to the distribution of the entire interest of an individual for whose benefit the IRA trust is maintained.

Code section 401(a)(9)(A) provides, in general, that a trust will not be considered qualified unless the plan provides that the entire interest of each employee-

(i) will be distributed to such employee not later than the required beginning date, or

(ii) will be distributed, beginning not later than the required beginning date, over the life of such employee or over the lives of such employee and a designated beneficiary or over a period not extending beyond the life expectancy of such employee and a designated beneficiary.

Section 401(a)(9)(C) of the Code provides, in relevant part, that, for purposes of this paragraph, the term "required beginning date" means April 1 of the calendar year following the calendar year in which the employee (IRA holder) attains age 70 ½.

Section 401(a)(9)-1 of the Proposed Income Tax Regulations, Question and Answer D-3, provides that for purposes of calculating the distribution period for distributions that begin prior to death, the designated beneficiary will be determined as of the plan participant's (IRA holder's) required beginning date.

Section 401(a)(9)-1 of the proposed regulations, Q&A F-1(a), provides that where an employee's benefit is in the form of an individual account and is to be distributed over a period not extending beyond the life expectancy of the employee or the joint life and last survivor expectancy of the employee and his designated beneficiary, the amount required to be distributed for each calendar year, beginning with the first calendar year for which distributions are required and for each succeeding calendar year, must be at least equal to the quotient obtained by dividing the employee's benefit by the applicable life expectancy.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A F-1(d), provides that the term "applicable life expectancy" means the life expectancy (or the joint and last survivor expectancy) determined in accordance with E-1 through E-5 of the proposed regulations, reduced by one for each calendar year which has elapsed since the date on which the life expectancy (or joint and last survivor expectancy) was calculated. However, pursuant to E-6 through E-8, life expectancy is recalculated, the applicable life expectancy will be the life expectancy so recalculated.

Section 1.401(a)(9)-1 of the proposed regulations, Qs&As E-3 and E-4, provide that life expectancies for purposes of determining required distributions under section 401(a)(9) must be computed by used of the expected return multiples in Tables V and VI of section 1.72-9.

Code section 401(a)(9)(D) provides, in general, that the life expectancy of a plan participant (or IRA holder) and his spouse may be recalculated but not more frequently than annually.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A E-6, provides, in general, that an employee's life expectancy and his spouse's life expectancy may be recalculated in accordance with Code section 401(a)(9)(D) but not more frequently than annually.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A E-7, provides the general rules for determining if a plan participant's, or IRA holder's or his spouse's life expectancy (or the life expectancies of both) is (are) to be recalculated. In relevant part, Q&A E-7(c) provides that a plan may permit an employee or IRA holder (or spouse) to elect the applicability or inapplicability of Code section 401(a)(9)(D). If such election is permitted, the decision to recalculate or not to recalculate must be made no later than the time of the first required distribution under Code section 401(a)(9).

Code section 401(a)(9)(B)(i) provides, in general, that where distributions have begun under subparagraph (A)(ii), and the employee (IRA holder) dies before his entire interest has been distributed to him, then the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used under subparagraph (A)(ii) as of the date of death.

Section 1.401(a)(9)-1 of the proposed regulations, Q&A B-5, provides, in pertinent part, that distributions are treated as having begun in accordance with section 401(a)(9)(A)(ii) on the employee's (IRA holder's) required

beginning date even though distributions may actually have been made before that date.

In this case, on Date 3, Taxpayer A instructed Company K, the custodian of his IRA X, to subdivide said IRA into nine IRAs. The nine IRAs were to be maintained for the benefit of Taxpayers B through J. Three days later, on Date 4, Taxpayer A instructed Company K that distributions from each of the nine sub-IRAs referenced in Taxpayer A's Date 3 letter were to be made over the joint life expectancies of Taxpayer A and that sub-IRA's named beneficiary. Additionally, on Date 4, Taxpayer A advised Company K that neither his nor Taxpayer J's life expectancy was to be recalculated for purposes of determining Code section 401(a)(9) required distributions.

Thus, based on the above facts and representations, with respect to your ruling requests, the Service concludes as follows:

1. That Taxpayer A timely designated Taxpayers B through J as the beneficiaries of the nine sub-IRAs set up pursuant to his instructions of Date 3;

2. that Taxpayer A timely elected to not recalculate his life expectancy for purposes of Code section 401(a)(9) with respect to distributions made or to be made from each of the nine sub-IRAs set up pursuant to his Date 3 instructions;

3. that Taxpayer A may use his and the appropriate designated beneficiary's joint life expectancy, subject to the minimum distribution incidental benefit requirement, if appropriate, in determining his required minimum distributions from each of the nine sub-IRAs; and

4. that, commencing in the calendar year following the calendar year of Taxpayer A's death, each of his designated beneficiaries may receive required distributions from the sub-IRA set up and maintained for his/her benefit over the designated beneficiary's life expectancy and the remaining life expectancy of Taxpayer A, if any.

This ruling is directed solely to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter ruling is being sent to your authorized representative.

Sincerely yours,

Frances V. Sloan

Frances V. Sloan
Manager, Employee Plans
Technical Group 3
Tax Exempt and Government
Entities Division

Enclosures:

Deleted copy of letter ruling
Form