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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEC 2 2002

T:EP:RA:T4

Significant Index No. 72.20-04

LEGEND:
Taxpayer A
IRA X
IRA Y
IRA Z

Dear :

This letter is in response to your ruling request dated October 9, 2002 regarding whether distributions from IRA Z will be considered substantially equal periodic payments for purposes of Section 72(t)(2)(A)(iv) of the Internal Revenue Code (the "Code") and that the commencement of distributions from IRA Z will not result in a modification to the stream of substantially equal periodic payments from IRA Y.

Taxpayer A received a distribution from his former employer's Code section 401(a) plan in July 2000. Taxpayer A transferred the entire account balance in his former employer's plan to IRA X in July 2000.

In August 2000, Taxpayer A transferred $ from IRA X to IRA Y and began receiving periodic payments from IRA Y in October 2000. Taxpayer A received a private letter ruling from the Internal Revenue Service dated March 8, 2001, that the methodology for determining the periodic payments from IRA Y satisfied the requirements of section 72(t)(2)(A)(iv) of the Code.

Taxpayer A attained age 42 during the 2001 calendar year. On March 16, 2001, Taxpayer A transferred $ from IRA X to IRA Z. Taxpayer A began receiving quarterly periodic payments in the amount of $175,000 from IRA Z on April 1, 2001, and will continue receiving such payments at least until Taxpayer A attains age 59 ½.

The amount to be distributed each year from IRA Z was determined by dividing the account value by an annuity factor equal to the present value of an annuity of $1 per year, payable in quarterly installments, beginning at the taxpayer's age in the first distribution year and continuing for the life of the taxpayer. The annuity factor was derived using the UP-1984 Mortality Table and an annual interest rate of 6.1% per year.

Taxpayer A has not made, and will not make, any other contributions or rollovers to IRA Z. Taxpayer A will not aggregate IRA Z with any other IRAs owned by Taxpayer A. Quarterly periodic payments from IRA Z will not be adjusted to reflect actual investment experience or to reflect changing interest rates.

Taxpayer A will not commingle any of the funds of IRA X, Y and Z, and all three IRAs are and will be maintained in accordance with section 408 of the Code.

Based on the foregoing facts and representations, you request that

(1) The method of determining periodic payments from IRA Z satisfies one of the methods set forth in Notice 89-25 and results in substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Code, and such payments will not be subject to an additional tax under section 72(t)(1) unless the requirements of section 72(t)(4) of the Code are not satisfied, and

(2) The use of the balance of IRA Z only in determining the amount of periodic payments from IRA Z satisfies the requirements of section 72(t)(2)(A)(iv) of the Code, and

(3) The commencement of distributions from IRA Z does not result in a modification under section 72(t)(4) to the substantially equal periodic payments from IRA Y.

Section 408(d) of the Internal Revenue Code provides that amounts paid or distributed out of an individual retirement plan must be included in gross income by the payee or distributee in the manner provided under section 72 of the Code.

Section 72 of the Internal Revenue Code provides rules for determining how amounts received as annuities, endowments, or life insurance contracts and distributions from qualified plans are to be taxed.

Section 72(t) of the Internal Revenue Code was added to the Code by the Tax Reform Act of 1986 (TRA '86), effective generally for taxable years beginning after December 31, 1986. Section 72(t)(1) provides for the imposition of an additional 10 percent tax on early distributions from qualified plans, including IRAs. The additional tax is imposed on that portion of the distribution that is includible in gross income.

Section 72(t)(2)(A)(iv) of the Code provides that section 72(t)(1) shall not apply to distributions which are part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of such employee and his beneficiary.

Section 72(t)(4) of the Code imposes the additional limitation on distributions excepted from the 10 percent tax by section 72(t)(2)(A)(iv), that if the series of payments is subsequently modified (other than by reason of death or disability) before the later of (1) the close of the 5-year period beginning with the date of the first payment, and (2) the employee's attainment of age 59 1/2, then the taxpayer's tax for the first taxable year in which such modification occurs shall be increased by an amount determined under regulations, equal to the tax that would have been imposed except for the section 72(t)(2)(A)(iv) exception, plus interest for the deferral period.

Notice 89-25, 1989-1 C.B. 662, provides guidance, in the form of questions and answers, on certain provisions of the Tax Reform Act of 1986 (TRA'86). In the absence of regulations on section 72(t) of the Code, this notice provides guidance with respect to the exception to the tax on premature distributions provided under section 72(t)(2)(A)(iv). Q&A-12 of Notice 89-25 provides three methods for determining substantially equal periodic payments for purposes of section 72(t)(2)(A)(iv) of the Code. Two of these methods involve the use of an interest rate assumption that must be an interest rate that does not exceed a reasonable interest rate on the date payments commence.

The proposed method for determining quarterly periodic payments described in the ruling request is to calculate a quarterly distribution amount for 2001 by dividing the account balance of IRA Z as of March 16, 2001, by an annuity factor that is the cost of a one dollar per year life annuity, paid in quarterly installments of one-fourth of a dollar, commencing at age 42. The annuity factor is calculated using commutation functions derived from the UP-1984 Mortality Table, using an interest rate of 6.1 percent. The same amounts will be distributed for all subsequent quarterly payments. All distributions will be taken from IRA Z, and only from IRA Z.

The mortality table and interest rate used are such that they satisfy the requirements of sections 72(t)(2)(A)(iv) of the Code.

Accordingly, with respect to ruling request one, we conclude that the method of determining periodic payments from IRA Z satisfies one of the methods described in Notice 89-25 and results in substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Code, and such payments will not be subject to the additional tax of section 72(t) unless the requirements of section 72(t)(4) are not satisfied.

With respect to ruling request two, section 72(t) of the Code and the applicable regulations do not require the aggregation of all IRAs owned by the same taxpayer for purposes of section 72(t)(2)(A)(iv). Taxpayer A will not commingle any of the funds of IRA X and Y to calculate and make periodic payments from IRA Z. Accordingly, we conclude that the use of the balance of IRA Z only in

determining the amount of periodic payments from IRA Z satisfies the requirements of section 72(t)(2)(A)(iv) of the Code.

With respect to ruling request three, as previously stated above, section 72(t) of the Code and the applicable regulations do not require the aggregation of all IRAs owned by the same taxpayer for purposes of section 72(t)(2)(A)(iv). Accordingly, we conclude that the commencement of distributions from IRA Z does not result in a modification under section 72(t)(4) to the substantially equal periodic payments from IRA Y.

This ruling letter assumes that IRA X, Y and Z have met the requirements of Code section 408(a) at all times relevant thereto.

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

This letter ruling was written by of this Group 4 who can be reached at

Sincerely,

Alan Pipkin, Manager
Employee Plans, Technical Group 4

Enclosures:

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Form 437