200027064

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Significant Index Number: 408.00-00

Contact Person:

Telephone Number:

In Reference to:
T:EP:RA:T1

Date:

APR 12 2000

Legend:

Taxpayer A =

Taxpayer B =

IRA X =

Dear :

This is in response to a ruling request dated November 19, 1999, as supplemented by additional correspondence dated March 19, 2000, and March 28, 2000, from your authorized representative concerning an individual retirement arrangement (IRA) described under section 408(a) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted on your behalf:

IRA X was created in Taxpayer B's name on December 5, 1996, with Taxpayer A named as sole beneficiary. Taxpayer B died on December 6, 1996, and, soon thereafter, Taxpayer A began receiving distributions from IRA X. IRA X contains no restrictions on transfers of the IRA assets to another IRA.

Taxpayer A would now like to have the trustee of IRA X transfer the assets in IRA X to a new IRA in order to have the assets invested in a manner more consistent with Taxpayer A's investment philosophy.

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Based on the foregoing facts and representations, you have requested the following ruling:

That the transfer of the assets in IRA X by the trustee to a new IRA trustee will not constitute a payment or distribution includible in the gross income of Taxpayer A.

Code section 408(d)(1) provides that, except as otherwise provided in section 408(d), any amount distributed out of an IRA shall be included in gross income by the distributee in the manner provided under section 72.

Revenue Ruling 78-406, 1978-2 C.B. 157, provides that the direct transfer of funds from one IRA trustee to another IRA trustee does not result in such funds being paid or distributed to the participant, and that such transfer is not a rollover contribution. The revenue ruling further states that this conclusion would apply whether the bank trustee initiates the transfer or the IRA participant directs the transfer of funds. In the situation presented, it is neither the IRA participant nor the bank trustee who wishes to initiate the transfer. Rather, the designated beneficiary of the IRA will do so. However, the IRA will still be transferred by the trustee of IRA X directly to the trustee of another IRA, which will be established in Taxpayer B's name. Accordingly, with respect to the ruling request, we conclude that Taxpayer A may initiate a direct trustee to trustee transfer of the assets in IRA X to another IRA without such assets being treated as paid or distributed to her.

This ruling assumes that IRA X and the new IRA to which the assets will be transferred are valid IRAs under Code section 408 at all relevant times.

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

A copy of this ruling is being sent to your authorized representative pursuant to a power of attorney on file in this office.

Sincerely yours,

John Swieca

Manager, Employee Plans
Technical Group 1
Tax Exempt and Government
Entities Division

Enclosures:
Deleted Copy of the Ruling
Notice 437

cc: