Internal Revenue Service

Department of the Treasury

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Person to Contact:

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Date: MAY 10 2000

Taxpayer A=
Taxpayer B=
Taxpayer C=
Brokerage D=
Brokerage E=
IRA Z=

This is in reply to a letter sent by your authorized representative dated February 24, 2000, and subsequent correspondence, requesting a ruling on the federal tax consequences of certain transactions involving an individual retirement arrangement (IRA). It is proposed that IRA Z be distributed to Taxpayers B and C pursuant to the death of Taxpayer A based on the life expectancy of Taxpayer B as described below.

Taxpayer A maintained IRA Z. Taxpayer A had a birth date of April 27, 1928. IRA Z was in Taxpayer A's name and taxpayer identification number (TIN). IRA Z was initially held at Brokerage D. In early 1998, Taxpayer A (prior to his attainment of age 70-1/2) transferred IRA Z from Brokerage D to Brokerage E. Taxpayer A attained age 70-1/2 on October 27, 1998. Therefore, the required beginning date for Taxpayer A was April 1, 1999.

In February 1998, Brokerage D sent Taxpayer A an account statement showing that, for informational purposes, the 1998 minimum distribution amount for purposes of section 401(a)(9) of the Internal Revenue Code. This amount was calculated using the single life expectancy of Taxpayer A and the account balance in IRA Z as of December 31, 1997. This calculation resulted in an illustrated minimum distribution of $15,575.

On March 31, 1998, Taxpayer A signed a beneficiary designation form for Brokerage E listing Taxpayers B and C as his designated beneficiaries. Taxpayers B and C are the daughters of Taxpayer A and are each entitled to 50% of IRA Z pursuant to this designation.

On October 20, 1998, Taxpayer A signed a Brokerage E distribution request form asking for annual distributions of $15,575 to begin on October 30, 1998. The first distribution was made at that time and was prior to the required beginning date for Taxpayer A (April 1, 1999).

Taxpayer A died on May 13, 1999. As per the Brokerage E IRA adoption agreement, Taxpayers B and C each received a 50% interest in IRA Z. Taxpayers B and C each established an IRA to receive their portion of IRA Z. The birth date of Taxpayer B is August 14, 1958. The birth date for Taxpayer C is October 17, 1966. Taxpayer A did not establish separate accounts for Taxpayers B and C under IRA Z.

The Brokerage E IRA Agreement defines "applicable life expectancy", in the case where the account holder has a designated beneficiary, as the joint and last survivor expectancy of the account holder and the designated beneficiary. This life expectancy is based on the ages of the account holder and the designated beneficiary as of the respective birth dates in the applicable calendar year. The Brokerage E IRA Agreement states that life expectancy is computed using the expected return multiples in Tables V and VI of section 1.72-9 of the Income Tax Regulations.

The Brokerage E IRA Agreement provides that an IRA owner can elect not to recalculate his/her life expectancy, but must make such an election, in writing, by the required beginning date. The Brokerage E IRA Agreement provides that an election not to recalculate is irrevocable and states that Federal tax rules allow for the recalculation method. Taxpayer A did not file any such election to opt out of the recalculation method.

The Brokerage E IRA Agreement further provides that if the designated beneficiary is not a spouse, the initial life expectancy is reduced by one (1) for each calendar year elapsed since the life expectancy of the account holder or the designated beneficiary was first calculated. The Brokerage E IRA Agreement provides that any change to the beneficiary designation must be in writing.

The Brokerage E IRA Agreement provides that the IRA holder is responsible for calculating the minimum distribution each year. The Brokerage E IRA Agreement states that the account holder is responsible for determining the minimum required distribution amount each year. The Brokerage E IRA Agreement provides that the minimum amount be no less than the quotient obtained by dividing the IRA balance by the lesser of:

(A) The applicable life expectancy, or

(B) If a spouse is not the designated beneficiary, the applicable divisor from the table in Q&A-4 of proposed section 1.401(a)(9)-2 of the regulations.

The Brokerage E IRA Agreement provides that if the account holder dies, the divisor used must be the applicable life expectancy of the designated beneficiary. Distributions after the account holder's death will be calculated using the applicable life expectancy as the divisor without regard to proposed section 1.401(a)(9)-2.

The Brokerage E IRA Agreement states that the account holder must request to have the required minimum distribution for the first distribution year by the account holder's required beginning date. The account holder must also request to have the required minimum distribution made for succeeding calendar years no later than December 31st of that year.

Based on the above, you requested the following rulings:

(1) That Taxpayer B is the designated beneficiary for purposes of section 401(a)(9) of the Code.

(2) That the use by Taxpayer A of the single life expectancy in determining the required minimum distribution in 1998 does not preclude the use of the joint life expectancy of the recalculated life expectancy of Taxpayer A and the term certain life expectancy of Taxpayer B in calculating the minimum distribution for 1999, the calendar year of the death of Taxpayer A.

(3) That in determining the required minimum distributions for calendar years following the calendar year of the death of Taxpayer A, the remaining term certain life expectancy of Taxpayer B may be used, beginning in the 2000 calendar year, and reduced by one for each calendar year thereafter.

Law

Section 401(a)(9)(A) of the Code provides that a plan must provide 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, in accordance with regulations, 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 or the life expectancy of such employee and a designated beneficiary).

Section 401(a)(9)(B)(i) of the Code provides that where distributions have begun in accordance with section 401(a)(9)(A)(ii), the plan must provide that if the employee dies before his entire interest has been distributed to him, the remaining portion of such interest will be distributed at least as rapidly as under the method of distribution being used under section 401(a)(9)(A)(ii) as of the date of his death.

Section 401(a)(9)(D) of the Code provides that the life expectancy of an employee and the employee's spouse (other than in the case of a life annuity) may be redetermined but not more frequently than annually.

Section 408(a)(6) of the Code provides that 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 an IRA is maintained.

Q&A E-1(a) of proposed section 1.401(a)(9)-1 of the regulations provides that for required distributions under section 401(a)(9) of the Code, life expectancies are calculated using the employee's (and the designated beneficiary's) attained age as of the employee's birthday (and the designated beneficiary's birthday) in the calendar year in which the employee attains age 70-1/2.

Q&A E-3 and Q&A E-4 of proposed section 1.401(a)(9)-1 of the regulations provide that life expectancies for purposes of determining required distributions under section 401(a)(9) of the Code must be computed by the use of the expected return multiples in Tables V and VI of section 1.72-9 of the regulations for a single life or joint lives, respectively.

Q&A E-5 of proposed section 1.401(a)(9)-1 of the regulations provides that if an employee has more than one designated beneficiary as of the applicable date for determining the designated beneficiary, the designated beneficiary with the shortest life expectancy will be the designated beneficiary for purposes of determining the distribution period. The "applicable date" for determining the designated beneficiary is the employee's required beginning date. For distributions commencing prior to the employee's death, the period described in section 401(a)(9)(A)(ii) of the Code is the "distribution period".

Q&A E-6 of proposed section 1.401(a)(9)-1 of the regulations provides that life expectancy may be recalculated but not more frequently than annually. Q&A E-8(b) of proposed section 1.401(a)(9) provides rules for when the designated beneficiary is not the employee's spouse. This section provides that the applicable life expectancy is the joint life and last survivor expectancy using the employee's attained age as of the employee's birthday during the calendar year and an adjusted age of the designated beneficiary. The adjusted age of the designated beneficiary is determined as follows:

1. The beneficiary's applicable life expectancy is calculated based on the beneficiary's attained age as of the beneficiary's birthday in the calendar year described in Q&A E-1, reduced by one (1) for each calendar year that has elapsed since that calendar year.

2. The age (rounded, if necessary to the higher age) in Table V of section 1.72-9 is then located which corresponds to the designated beneficiary's applicable life expectancy.

Such age is the adjusted age of the designated beneficiary. Upon the death of the employee, the life expectancy of the employee is reduced to zero (0) in the calendar year following the calendar year of the employee's death. In determining the minimum distribution for such calendar year and later calendar years, the applicable life expectancy is that of the designated beneficiary as of the beneficiary's birthday in the calendar year described in Q&A E-1, reduced by one (1) for each calendar year that has elapsed since that calendar year.

Q&A H-2(b) of proposed section 1.401(a)(9)-1 of the regulations provides that if, as of the employee's date of death, the beneficiaries for a separate account differ from the beneficiaries for another separate account, such separate accounts need not be aggregated in order to determine if the distributions from such separate accounts satisfy section 401(a)(9) of the Code. Instead, the rules of section 401(a)(9) may separately apply to such separate accounts.

Q&A-4 of proposed section 1.401(a)(9)-2 of the regulations provides guidance for satisfying the minimum distribution incidental benefit requirements for an IRA. This section states that the minimum amount that must be distributed for each distribution calendar year is determined by dividing the IRA balance by the applicable divisor under the table contained in that section. The applicable divisor is determined using the attained age of the account holder as of his or her birthday in that distribution calendar year.

Although the regulations under section 401(a)(9) are proposed, the preamble to that section states that taxpayers may rely on these proposed regulations until final regulations have been issued. The preamble also states that if future final regulations are more restrictive, they will not be retroactively applied.

Issue 1

The required distribution date for Taxpayer A was April 1, 1999. On March 31, 1998, Taxpayer B and Taxpayer C were named as designated beneficiaries. Therefore, Taxpayer B and Taxpayer C are each a "designated beneficiary" pursuant to section 1.401(a)(9)-1 of the proposed regulations. Also, Taxpayer A did not establish separate accounts (pursuant to Q&A H-2(b) of proposed section 1.401(a)(9)-1 of the regulations) for purposes of section 401(a)(9) of the Code. Taxpayer B is older than Taxpayer C. Under Q&A E-5 of proposed section 1.401(a)(9)-1 of the regulations, Taxpayer B is the designated beneficiary for purposes of section 401(a)(9) of the Code.

Issue 2

Under the Brokerage E IRA Agreement, the applicable life expectancy is that of Taxpayer A (the IRA Z account holder) and his designated beneficiary (Taxpayer B) for purposes of section 401(a)(9) of the Code. The Brokerage E IRA Agreement further provides that the required minimum distribution will not be less than the quotient obtained by dividing the amount in the IRA by the lesser of the applicable life expectancy or the applicable divisor from the table in Q&A-4 of proposed section 1.401(a)(9)-2 of the regulations.

For the 1998 distribution calendar year, the applicable life expectancy from Table VI of section 1.72-9 of the regulations is 42.9 and the applicable divisor from the table in Q&A-4 of proposed section 1.401(a)(9)-2 is 26.2. Dividing the IRA Z account balance of $249,194 by 26.2 (the lesser of 42.9 and 26.2) yields a minimum required distribution for the 1998 distribution calendar year of $9,511.

In the 1998 distribution calendar year, Taxpayer A received a distribution from IRA Z of $15,575. Accordingly, the $15,575 distribution exceeded the minimum required distribution determined based on the joint and survivor life expectancy for Taxpayers A and B. The fact that the distribution of $15,575 exceeded the minimum required distribution for 1998 does not alter the determination of the applicable life expectancy under the Brokerage E IRA Agreement.

Taxpayer A did not elect to not recalculate life expectancy, and the designated beneficiary is not his spouse. Therefore, under the Brokerage E IRA Agreement, the minimum required distribution from IRA Z in 1999 is determined by reducing the initial life expectancy by one (1) for each calendar elapsed since the life expectancy was first calculated. Thus, for the 1999 distribution calendar year, the applicable life expectancy of Taxpayer A and Taxpayer B is accordingly 25.2 (26.2 reduced by one (1)). For 1999, the applicable divisor from the table in Q&A-4 of proposed section 1.401(a)(9)-2 of the regulations is 25.3. A divisor of 25.2 (the lesser of 25.2 and 25.3) must be used to calculate the minimum required distribution amount in 1999.

Issue 3

Under the Brokerage E IRA Agreement, the life expectancy of Taxpayer A reduces to zero (0) in the calendar year following his death. The minimum distribution is determined using the applicable life expectancy, which is the applicable life expectancy of Taxpayer B (the designated beneficiary for purposes of section 401(a)(9) of the Code).

Under the Brokerage E IRA Agreement, the minimum distributions for 2000 from the IRAs established by Taxpayers B and C are calculated based on the December 31, 1999 account balance in IRA Z divided by the applicable life expectancy of Taxpayer B. When distributions from IRA Z commenced in 1998, Taxpayer B had an attained age of 40. Under Table V of section 1.72-9, Taxpayer B had a life expectancy of 42.5 in 1998. Pursuant to the terms of the Brokerage E IRA Agreement, the applicable life expectancy of Taxpayer B in 2000 is 40.5 (42.5 less two (2)). Accordingly, for the 2000 distribution calendar year, the minimum required distribution is determined by dividing the December 31, 1999 IRA Z account balance by 40.5.

In subsequent distribution years, the minimum required distributions will be determined by dividing the sum of the balances of IRAs established by Taxpayers B and C by Taxpayer B's applicable life expectancy. Taxpayer B's applicable life expectancy will continue to be determined by reducing the applicable life expectancy of Taxpayer B by one (1) for each year elapsed since 1998.

This ruling is directed only 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.

Sincerely,

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