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Significant Index Number: 408.06-00

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********** ID#*******
********** (202) 283-*****
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********** T:EP:RA:T*
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APR 6 2001

Legend:

State A = **********
County C = **********
Individual D = **********
Individual S = **********
Individual T = **********
Individual W = **********
IRA X = **********
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Brokerage
Firm Y = **********

Dear M**********

This is in response to a ruling request dated October 24, 2000, submitted on your behalf by your authorized representative, regarding the federal tax treatment of certain transactions described below.

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

Individual D was born on August 9, 1922 and died on August 30, 1999, at the age of 77. At the time of his death, Individual D had been retired for approximately ten years. Individual D was predeceased by his wife, Individual W, who died on September 25, 1991. Individual D was survived by his two sons, Individual S and Individual T, who were his only children. Individual S was born on April 2, 1948 and Individual T was born on September 26, 1951. Individual D died testate and his will has been admitted to probate in County C of State A. Individual D's

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will provided for the payment of debts and taxes out of his residuary estate, the distribution of personal property and the payment of a $5000.00 pecuniary bequest to his son, Individual T, all of which have been paid from assets in his estate. Article V of Individual D's will states, "I devise and bequest all the rest, residue and remainder of my estate in shares of equal value to my surviving children, Individual S and Individual T, or to the living issue, per stirpes, of any of my children who predecease me…". Individual S and Individual T were named as co-executors in Individual D's will and were so qualified by County C, State A Clerk of Court's Estate File on September 3, 1999.

One of the assets owned by Individual D at the time of his death was an individual retirement account, IRA X, which Individual D had purchased in May, 1984. You represent that all times that Individual D dealt with Brokerage Firm Y, he dealt with the same advisor. You further represent that this advisor and Individual D kept in close contact from 1984 until Individual D's death in 1999, and that this advisor was aware of the events in Individual D's personal life, including the fact of Individual W's death and the fact that Individual D had two grown children. At the time Individual D purchased IRA X, he completed a beneficiary designation form in which he named Individual W as the primary beneficiary. No alternate beneficiary was named, and there was no place on the form to designate an alternate beneficiary. After Individual W's death, Individual D never completed, and, to the best of Individuals S and T's knowledge, was never advised by Brokerage Firm Y's advisor to complete another beneficiary designation form. Brokerage Firm Y's form that governed Individual D's IRA X provided that if no designated beneficiary survives the IRA holder or if no beneficiary designation is in effect at his/her death, the IRA balance will be paid out to the spouse or, if not survived by a spouse, to the estate of the IRA holder.

Individual D reached age 70 1/2 in 1993 and was required to begin taking minimum required distributions from IRA X by April 1, 1994. Prior to this date, Individual D did not file an election, and to the best of Individuals S and T's knowledge, was never informed by Brokerage Firm Y's advisor of his rights to make an election regarding whether to pay out his minimum required

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distributions over his sole life expectancy as computed as of his required beginning date or whether to recalculate his life expectancy annually. IRA X provided that unless a plan employee elected otherwise, his life expectancy would be recalculated annually under the IRA life expectancy tables. Accordingly, Individual D, in 1994, for the year 1993, began receiving his required minimum distributions based upon his life expectancy, which was recalculated each year. He received annual distributions from IRA X for the years 1993, 1994, 1995, 1996, 1997, 1998 and 1999. When Individual D died on August 30, 1999, there was no beneficiary named for IRA X. Since Individual D died testate and his will left his entire net estate, other than a small pecuniary bequest, equally to his sons, Individuals S and T, Individual D's entire residuary estate, including IRA X, will pass equally to his sons Individuals S and T, the co-executors. Your representative informed the Internal Revenue Service on March 28, 2001, that distributions from IRA X were made to Individual D's estate by December 31, 2000.

Based upon the aforementioned facts, your authorized representative has requested rulings that:

(1) Individual D's sons, Individual S and Individual T, rather than Individual D's estate, be treated as the payees or distributees of IRA X;
(2) Individual D's sons, Individual S and Individual T, be treated as the designated beneficiaries of IRA X;
(3) Individual D's sons, Individual S and Individual T, are eligible to treat the distributions from IRA X to the estate as distributions to them individually;
(4) Individual D's sons, Individual S and Individual T, will only be required to include in gross income for federal income tax purposes for the years since D's death, those amounts which would have been required to be paid out to them if they had been named the beneficiaries of IRA X and the IRA X benefits had been paid out over the shortest of their life expectancies;
(5) IRA X be paid out over the joint life expectancy of Individual D and the older of the two beneficiaries, Individual S and Individual T, the joint life expectancy to be determined as of

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Individual D's required beginning date for receiving distributions under IRA X;

(6) Individual D's estate is not required to receive the distribution of the entire remaining balance in IRA X by Decembers 31, 2000; and,

(7) any distributions from IRA X will not result in any penalty under section 4974 of the Internal Revenue Code.

Section 408(d)(1) of the Code provides generally that 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(a)(6) of the Code provides, with respect to IRAs, that rules similar to the rules of section 401(a)(9) of the Code 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 is maintained.

Section 401(a)(9)(A)(ii) of the Code provides that the entire interest of an employee will be distributed beginning not later that 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) of the Code provides that if the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii) above and 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 distributions being used as of the date of his death.

Section 401(a)(9)(D) of the Code provides generally that the life expectancy of an employee may be redetermined but not more frequently than annually.

Section 1.401(a)(9)-1 of the Proposed Income Tax Regulations ("Regulations"), Q&A D-2, provides that except for former beneficiaries, designated beneficiaries are only individuals who are designated as beneficiaries under the

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plan, either by the terms of the plan, or if the plan provides, by an affirmative election by the employee (or the employee's surviving spouse) specifying the beneficiary.

Section 1.401(a)(9)-1 of the Proposed Regulations, Q&A D-3, provides that generally the designated beneficiary will be determined as of the employee's required beginning date, and if, as of that date, there is no designated beneficiary under the plan to receive the employee's benefit upon the employee's death, the distribution period described in section 401(a)(9)(A)(ii) is limited to the employee's life expectancy (or a period not extending beyond the employee's life expectancy).

Section 401(a)(9)-1 of the Proposed Regulations, Q&A E-8(a), provides rules for recalculating life expectancies annually. Upon the death of the employee the recalculated life expectancy of the employee will be reduced to zero in the calendar year following the calendar year of death. Further, in any calendar year in which the last applicable life expectancy is reduced to zero, the plan must distribute the employee's entire remaining interest prior to the last day of such year in order to satisfy section 401(a)(9) of the Code.

In this case, Individual D began receiving his required minimum distributions from IRA X in 1994. When Individual D died in 1999, his wife had predeceased him, and there was no designated beneficiary either under the terms of IRA X nor as a result of an affirmative election by Individual D. Therefore, his distribution period was limited to his life expectancy. Since Individual D had recalculated his life expectancy annually, his life expectancy was reduced to zero in 2000, the calendar year following the calendar year of death. Under the regulations, Individual D's entire remaining interest in IRA X had to be distributed prior to December 31, 2000.

Thus, we conclude that Individuals S and T, Individual D's sons, may not be treated as designated beneficiaries of Individual D's IRA X because the terms of IRA X did not so name them as designated beneficiaries, and Individual D made no affirmative election to designate them as beneficiaries of his IRA X.

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Since we have concluded that Individuals S and T may not be treated as designated beneficiaries of IRA X, ruling requests one, three, four, five, six and seven are moot.

This ruling is based on the assumption that at all relevant times, IRA X meets the requirements of section 408 of the Code.

This ruling is directed only 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.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file with this office.

Sincerely yours,

(signed) JOYCE E. FLOYD

Joyce E. Floyd, Manager
Employee Plans Technical Group 2
Tax Exempt and Government
Entities Division

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose

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