



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

200415011

UIL: 408.03-00

JAN 16 2004

SE: T: EP: RA: T3

LEGEND:

Taxpayer A:

Executor E:

IRA X:

Ladies and Gentlemen:

This is in response to a letter dated September 8, 2003, as supplemented by a letter dated November 7, 2003, in which your authorized representative requests a private letter ruling on your behalf concerning the rollover of an individual retirement arrangement (IRA) distribution

Taxpayer A, whose date of birth was June 15, 1942, died on October 5, 2002. Taxpayer A was not survived by a husband.

Prior to her death Taxpayer A received distributions from IRA X, an IRA maintained by her, totaling \$. After her death, when Executor E, a son of Taxpayer A and the executor of her estate, became aware of the distributions, he immediately returned a portion of the distributions to IRA X. The beneficiaries of Taxpayer A's estate are her children, including Executor E.

Based on the above facts and representations, you, through your authorized representative, request a ruling that Executor E's payment to IRA X qualified as a rollover under Section 408(d)(3) of the Internal Revenue Code.

With respect to your ruling request, Code section 408(d)(1) provides that, except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement plan shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Code section 408(d)(3) provides that section 408(d)(1) does not apply to a rollover contribution if such contribution satisfies the requirements of sections 408(d)(3)(A) and (d)(3)(B).

Code section 408(d)(3)(A)(i) provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the account is maintained if the

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entire amount received (including money and any other property) is paid into an IRA (other than an endowment contract) for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution.

Code section 408(d)(3)(C) defines, and provides the rules, governing inherited IRAs.

Under the general rule of section 408(d)(3) of the Code, which is applicable in this case, a rollover of a distribution from an IRA maintained on behalf of an individual may be made to either the same or to another IRA maintained for the benefit of the same individual. In this case, Taxpayer A, who was the individual on whose behalf IRA X was maintained, died prior to the date of the action of Executor E referenced above. Furthermore, Executor E is neither the recipient of the subject IRA X distributions nor the individual on whose behalf IRA X was maintained. Finally, the beneficiary of IRA X cannot be the surviving spouse of Taxpayer A.

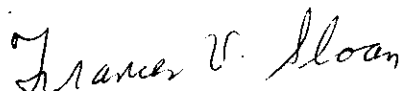
Accordingly, with respect to your ruling, it is concluded that Executor E's payment to IRA X does not qualify as a rollover under section 408(d)(3) of the Code.

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

The author of this ruling is

SE:T:EP:RA:T3 who may be reached at

Sincerely yours,



Frances V. Sloan
Manager, Employee Plans
Technical Branch 3

Enclosures:

Deleted copy of letter ruling
Form 437