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

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

JUL 12 2007

U.I.L. 408.00-00

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LEGEND:

Taxpayer A	= *****
IRA X	= *****
Company P	= *****
Amount D	= *****
Company M	= *****
Church B	= *****

Dear *****:

This is in response to a letter dated May 22, 2004, as supplemented by correspondence dated February 17, 2005, June 2, 2005, August 30, 2005, January 9, 2006, June 21, 2007, June 26, 2007, June 28, 2007, and July 3, 2007, submitted on your behalf by your authorized representative in which you request a ruling concerning the tax treatment under section 408 of the Internal Revenue Code (the "Code") of a proposed loan from your individual retirement arrangement (IRA) to an organization which you represent is exempt from taxation under section 501(c)(3) of the Code.

The following facts and representations have been submitted under penalties of perjury in support of your ruling request.

On May 27, , Taxpayer A established a self-directed rollover individual retirement arrangement, IRA X, with Company P. Documentation submitted with this request shows that Taxpayer A established IRA X with a deposit in the amount of Amount D with a transfer of funds from an IRA he maintains with Company M.

The IRA X plan document provides, among other things, that the IRA Depositor may designate a representative under the custodial agreement through whom Company P is authorized to accept investment instructions for the depositor's account; that the IRA Depositor may direct Company P to invest the IRA assets into any lawful investment that is acceptable to Company P; and that the IRA Depositor is responsible for determining the suitability, nature risk, etc. of the investment and understands that he or she may not invest IRA assets in an investment that would constitute a prohibited transaction within the meaning of Code section 4975.

Taxpayer A proposes to direct an investment of his IRA X assets (Amount D) in the form of a loan to Church B. It has been represented that Church B is a tax-exempt religious organization as described in Code section 501(c)(3). Taxpayer A is neither a board member nor an employee of Church B. Taxpayer A has no control, ownership or financial interest in Church B. Taxpayer A represents that he does not currently intend to, either presently or at some future date, take a charitable deduction in conjunction with the loan contemplated herein.

In exchange for the loan, IRA X will receive a twenty-year promissory note. The promissory note provides, in part, that Church B promises to pay Amount D to the order of Company P, IRA Custodian f/b/o Taxpayer A, with interest at the rate of five percent per annum until paid. Interest payments will be made by Church B on an annual basis. The promissory note also provides that a final, balloon payment in the amount of Amount D shall be paid in full upon the earlier of the end of the term of the promissory note (twenty years) or within one hundred twenty (120) days, or a reasonable period after the date of death of Taxpayer A. Repayment of the promissory note will be to the order of an independent IRA custodian and will go to IRA X. The promissory note allows for prepayment without penalty. The promissory note further states that Church B grants Company P a continuing security interest in the insurance policy collaterally assigned within a reasonable period relative to the execution of this obligation and that Church B shall not be entitled to convey, borrow upon or otherwise transfer any rights associated with said policy without the express written consent of Taxpayer A.

You represent that the purpose of this security agreement within the promissory note is to provide additional certainty for Taxpayer A that the ownership of the insurance policy, will, from the date of purchase until the date of death, continue to qualify as an insurable interest under state law. Taxpayer A, pursuant to the terms of the security agreement within the promissory note will directly require

Church B to seek written approval of Taxpayer A for transactions related to transfer of ownership, borrowing and other major changes that may impact the policy.

It is further represented that the contractual relationship evidenced by the promissory note is between Company P and Church B and establishes the legal obligation to pay. You also state that commercial reasonability requires proper collateralization of the promissory note and that this collateralization, in this case, is evidenced by two agreements: (1) the collateral assignment form agreement between the company that will issue the life insurance policy, Taxpayer A, Church B and Company P, and (2) the security agreement within the body of the promissory note executed between Church B and Company P.

You represent that the intent to have two collateral agreements is to provide ample protection, outside of the contractual terms set forth within the insurance company's collateral assignment, that there will be a continuing "insurable interest". You state that Taxpayer A is the most appropriate party to protect this interest. It is further represented that while written approval is required to convey, borrow upon or otherwise transfer any rights associated with said policy, Taxpayer A is never directly entitled to the death benefits under the policy and that Company P is the obligor under the promissory note and it will receive any payments of funds. You note, that Taxpayer A, however, is the insured and should have the ultimate decision with respect to their individual insurable interests.

The promissory note will be secured by collateral assignment of a permanent life insurance policy which will insure Taxpayer A's life. The life insurance policy will be purchased and owned by Church B and provide a death benefit in the amount of Amount D. Church B will be the beneficiary of the life insurance policy. Church B will have all rights of ownership and benefit from any increasing death benefit that may be generated by the life insurance policy. Neither Taxpayer A nor IRA X will have the right to surrender, convert, pledge, cancel or sell the life insurance policy. Neither Taxpayer A nor IRA X will have the right to change or amend the beneficiary designation of the life insurance policy. Church B will not be entitled to convey, borrow upon or otherwise transfer any rights associated with the life insurance policy during the period of collateral assignment without the express written consent of Taxpayer A.

It is represented that IRA X is not the contract owner of the life insurance policy nor is IRA X the beneficiary thereof. IRA X, through Company P, does not have the ability to surrender, convert or sell the life insurance policy. Further, IRA X does not possess equity features in the form of either (1) the ability to surrender, convert, pledge, sell, cancel, or transfer the policy, (2) the ability to amend the beneficiary designation nor (3) any continuing beneficial interest in the increasing death benefit that may occur during the ownership of the life insurance policy.

It is further represented that the IRA X investment is a collateralized loan bearing interest with adequate collateral to guarantee repayment of the principal amount of the loan outstanding at Taxpayer A's death to IRA X. It is represented that IRA X is a secured creditor of Church B and not an investor in or contractual owner of the life insurance policy so that the IRA X proceeds are not invested in life insurance contracts as that term is used in section 408(a)(3) of the Code.

In a letter dated August 30, 2005, it was represented that the required minimum distribution for Taxpayer A will commence at approximately five percent of the IRA X account balance and will increase each year. Taxpayer A projects that the annual five percent interest payments from Church B on the loan will be utilized, in part, to satisfy his required minimum distributions under Code section 401(a)(9). You further represent that the balance of Taxpayer A's required minimum distributions will be satisfied by distributions from other IRAs held by Taxpayer A.

Based on the aforementioned facts and representations, you have requested the following rulings:

1. The above described transaction is not a prohibited transaction within the meaning of section 4975 of the Code such that the IRA would cease to be an IRA under section 408(e)(2) of the Code.

2. The above described transaction is not a prohibited investment in insurance within the meaning of section 408(a)(3) of the Code such that the IRA would cease to be an IRA under section 408(a)(3).

Section 408(a) of the Code generally provides that an IRA means a trust created or organized for the exclusive benefit of an individual or his beneficiaries.

Section 408(a)(3) of the Code provides that no part of an IRA trust may be invested in life insurance contracts.

Section 408(e)(2)(A) of the Code provides, in part, that if an individual for whose benefit an IRA is established, or his beneficiary, engages in a transaction prohibited by section 4975 of the Code in connection with the IRA at any time during the individual's taxable year, the account ceases to be an IRA as of the first day of such taxable year. In any case in which any account ceases to be an IRA as of the first day of any taxable year, the account will be treated as having distributed all of the assets of such account.

Section 4975(c)(1)(B) of the Code provides that any direct or indirect lending of money or other extension of credit between a plan and a disqualified person is a prohibited transaction.

Section 4975(e)(1) of the Code provides, in part, that the term "plan" includes an IRA described in section 408.

Section 4975(e)(2) of the Code provides, in part, that a "disqualified person" means a person who is -

(A) a fiduciary;

(B) a person providing services to the plan;

(C) an employer any of whose employees are covered by the plan;

(D) an employee organization any of whose members are covered by the plan;

(E) an owner, direct or indirect, of 50 percent or more of –

(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation,

(ii) the capital interest or the profits interest of a partnership, or

(iii) the beneficial interest of a trust or unincorporated enterprise, which is an employer or employee organization described in subparagraph (C) or (D);

(F) a member of the family (as defined in paragraph (6)) of any individual described in subparagraph (A), (B), (C), or (E);

(G) a corporation, partnership or trust or estate of which (or in which) 50 percent or more of –

(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

(ii) the beneficial interest of such trust or estate,
is owned directly or indirectly, or held by persons described in subparagraph (A), (B), (C), (D), or (E);

(H) an officer, director (or an individual having powers or responsibilities similar to those of officers or directors), a 10 percent or more shareholder, or a highly compensated employee (earning 10 percent or more in yearly wages of an employer) of a person described in subparagraph (C), (D), (E), or (G); or

(I) a 10 percent or more (in capital or profits) partner or joint venturer of a person described in subparagraph (C), (D), (E) or (G).

Section 1.408-2(b)(3) of the Regulations provides that no part of an IRA trust may be invested in life insurance contracts.

Section 20.2042-1(c) of the Regulations provides, in part, that "incidents of ownership" includes the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke an assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy.

With respect to the first ruling request, Church B is not related to IRA X in a manner that would come within the definition of a disqualified person as described in Code section 4975(e)(2)(A) – (I). Conversely, Taxpayer A is not a board member or an employee of Church B nor does Taxpayer A control, own or have a financial interest in Church B.

Accordingly, with respect to your first ruling request, we conclude that the above described transaction is not a prohibited transaction within the meaning of section 4975 of the Code such that IRA X would cease to be an IRA under section 408(e)(2) of the Code.

With respect to the second ruling request, Church B will purchase and own the life insurance policy, as well as have all rights of ownership and benefit from any increasing death benefit that may be generated. Church B will pay the premiums on the life insurance policy. You represent that IRA X is not the contract owner of the life insurance policy nor is IRA X the beneficiary of the policy. In the event of Taxpayer A's death, only the promissory note will be repaid to IRA X. IRA X will not receive or benefit from any death benefit that may be generated from the life insurance policy.

Accordingly, we conclude that the above described transaction is not a prohibited investment in insurance within the meaning of section 408(a)(3) of the Code such that the IRA would cease to be an IRA under section 408(a)(3).

This letter 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.

This ruling does not express an opinion as to whether IRA X, exclusive of the language contained in the IRS Model Custodial Agreement (Form 5303-A) meets the requirements for qualification under Code section 408(a). This ruling does not express an opinion as to whether Company P is qualified to serve as a custodian of IRAs as stated on page 2 of Company P's IRA Custodial Agreement that was submitted with this ruling request. This ruling does not express an opinion as to validity of the terms of the promissory note or the terms of the life insurance policy that Taxpayer A proposes to use in connection with this transaction nor does it express an opinion as to whether the requirements of Code section 408(d) were satisfied with respect to the establishment of IRA X with Company P. Further, this ruling does not express an opinion as to the method in which Taxpayer A proposes to receive his required minimum distributions from IRA X satisfies the requirements of Code section 401(a)(9).

No opinion is expressed as to the tax treatment of the transactions described herein under the provisions of any other section of either the Code or the Income Tax Regulations, which may be applicable thereto that are within the jurisdiction of other offices of the Internal Revenue Service.

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

If you have any questions, please contact *******************SE:T:EP:RA:T2.

Sincerely yours,

Joyce E. Floyd, Manager
Employee Plans Technical Group 2

Enclosures:
Deleted copy of ruling letter
Notice of Intention to Disclose