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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

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PLR-120336-24

Date:

March 25, 2025

LEGEND

Taxpayer =
Decedent =
Plan 1 =
Plan 2 =
Plan 3 =

Custodian =
Date 1 =
Date 2 =
Date 3 =

Dear :

This is in response to a request for a letter ruling under section 402(c) of the Internal Revenue Code, submitted on your behalf by your authorized representative on October 14, 2024, and supplemented on January 7, 2025.

The following facts and representations have been submitted under penalties of perjury in support of the rulings requested. Decedent died testate as a resident of the State of on Date 1. Decedent was born on Date 2 and was less than 72 years old at the time of death. Decedent was survived by his spouse, Taxpayer. Taxpayer was born on Date 3 and is less than 73 years old.

At the time of Decedent's death, Decedent held retirement plan assets in Plan 1, Plan 2, and Plan 3 (collectively referred to as "Decedent's Plans") maintained by Custodian. Plans 1 and 2 are section 401(a) plans and Plan 3 is a section 403(b) plan.

Decedent designated his estate as the sole beneficiary of Decedent's Plans. Decedent's Last Will and Testament designates Taxpayer as the sole beneficiary to Decedent's estate and residuary estate and also as Decedent's sole personal representative. As the sole personal representative of Decedent's estate, Taxpayer intends to direct the retirement plan assets from Decedent's Plans to Decedent's estate and then receive the retirement plan assets as the sole beneficiary of Decedent's estate. Taxpayer intends to roll over those same retirement plan assets into an IRA or IRAs maintained in Taxpayer's name within 60 days of the date the retirement plan assets are received by the estate.

REQUESTED RULINGS

Based on the above facts and representations, you, through your authorized representative, request the following rulings:

1. Taxpayer will be treated as the payee or distributee of the retirement plan assets from Decedent's Plans.
2. Taxpayer, as Decedent's spouse, will be eligible to roll over the retirement plan assets from Decedent's Plans into an IRA or IRAs maintained in Taxpayer's name, if the rollover occurs no later than the 60th day after the date the retirement plan assets are received by Decedent's estate.
3. Taxpayer will not be required to include the above referenced distribution and rollover in Taxpayer's gross income for federal tax purposes in the year of such distribution and rollover.

LAW

Section 402(c)(1) provides, generally, that if any portion of an eligible rollover distribution from a section 401(a) qualified retirement plan is transferred into an eligible retirement plan, the portion of the distribution so transferred shall not be includible in gross income in the taxable year in which paid.

Section 402(c)(2) provides that the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)). The preceding sentence shall not apply to such distribution to the extent—

- (A) such portion is transferred in a direct trustee-to-trustee transfer to a qualified trust or to an annuity contract described in section 403(b) and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or

(B) such portion is transferred to an eligible retirement plan described in clause (i) or (ii) of section 402(c)(8)(B).

In the case of a transfer described in subparagraph (A) or (B), the amount transferred shall be treated as consisting first of the portion of such distribution that is includible in gross income (determined without regard to paragraph (1)).

Section 402(c)(3) provides that section 402(c)(2) shall not apply to any transfer of a distribution made after the sixtieth day following the day on which the distributee received the property distributed. The Secretary may waive the 60-day requirement under subparagraph (A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Section 402(c)(4) defines an eligible rollover distribution as any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

(A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made —

(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or (ii) for a specified period of 10 years or more,

(B) any distribution to the extent such distribution is required under section 401(a)(9), and

(C) any distribution which is made upon hardship of the employee.

Section 402(c)(8)(B) defines an eligible retirement plan as (i) an individual retirement account described in section 408(a), (ii) an individual retirement annuity described in section 408(b) (other than an endowment contract), (iii) a qualified trust, (iv) an annuity plan described in section 403(a), (v) an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A), and (vi) an annuity contract described in section 403(b).

Section 402(c)(9) provides that if any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, section 402(c) will apply to such distribution in the same manner as if the spouse were the employee.

Section 403(b)(8)(A) provides that, if (i) any portion of the balance to the credit of an employee in an annuity contract described in section 403(b)(1) is paid to him in an eligible rollover distribution (within the meaning of section 402(c)(4)), (ii) the employee transfers any portion of the property he receives in such distribution to an eligible

retirement plan described in section 402(c)(8)(B), and (iii) in the case of a distribution of property other than money, the property so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

Section 403(b)(8)(B) provides that the rules of section 402(c)(2)-(7), (9), and (11), as well as section 402(f), apply for purposes of section 403(b)(8)(A), except that section 402(f) shall be applied to the payor in lieu of the plan administrator.

ANALYSIS

Under the facts presented, the retirement plan assets of Decedent's Plans are payable to Decedent's estate under the Decedent's beneficiary designations for Decedent's Plans. Under the terms of Decedent's Last Will and Testament, Taxpayer, Decedent's surviving spouse, is the sole personal representative and sole beneficiary of Decedent's estate. As sole personal representative, Taxpayer can direct the retirement plan assets of Decedent's Plans to be paid to Decedent's estate and then to Taxpayer as the estate's sole beneficiary. Under these circumstances, because the distributions of the retirement plan assets will be paid to Decedent's spouse, section 402(c) applies to the distributions in the same manner as if the spouse were the Decedent. Therefore, the distributions may be treated as being paid from Decedent's Plans to Taxpayer for purposes of section 402(c). Thus, Taxpayer may roll over the retirement plan assets of Decedent's Plans into one or more IRAs maintained in Taxpayer's name.

RULINGS

Thus, with respect to your ruling requests, we conclude as follows:

1. Taxpayer will be treated as the payee or distributee of the retirement plan assets from Decedent's Plans.
2. Taxpayer, as Decedent's spouse, will be eligible to roll over the retirement plan assets from Decedent's Plans into an IRA or IRAs maintained in Taxpayer's name, if the rollover occurs no later than the 60th day after the date the retirement plan assets are received by the Decedent's estate.
3. Taxpayer will not be required to include the above referenced distribution and rollover in Taxpayer's gross income for federal tax purposes in the year of such distribution and rollover

The rulings contained in this letter are based upon information and representations submitted by Taxpayer, and on Taxpayer's behalf by Taxpayer's authorized representative, and accompanied by a penalty of perjury statement executed by Taxpayer, as specified in Rev. Proc. 2025-1, 2025-1 I.R.B. 1, section 7.01(16)(b). While this office has not verified any of the material submitted in support of the request for

rulings, it is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts, the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based, or, in the case of a transaction involving a continuing action or series of actions, the controlling facts materially change during the course of the transaction. See Rev. Proc. 2025-1, section 11.05.

Except as expressly provided above, no opinion is expressed or implied concerning the federal income tax consequences of any other aspects of any transaction or item of income described in this letter ruling.

This letter is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Amy S. Moskowitz
Senior Technician Reviewer
Qualified Plans Branch 3
Office of the Associate Chief Counsel
(Employee Benefits, Exempt Organizations, and
Employment Taxes)

cc: