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Person To Contact:

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Telephone Number:

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PLR-101506-25

Date:

June 13, 2025

LEGEND

Taxpayer	=
Decedent	=
Pension Plan	=
Date 1	=

Dear :

This is in response to a request for a letter ruling under section 402 of the Internal Revenue Code, submitted on your behalf by your authorized representative on January 28, 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 less than 72 years old at the time of death. Decedent was survived by her spouse, Taxpayer. Taxpayer is less than 73 years old.

Decedent was a participant in the Pension Plan. In 2023, under the terms of the Pension Plan, Decedent elected to receive Decedent's benefit in the form of a lump sum, and Taxpayer consented to the waiver of the qualified joint and survivor annuity form of benefit in favor of the lump sum distribution to Decedent. Decedent submitted all necessary documents for the lump sum distribution, but the benefit had not yet been distributed by Date 1. In such a case, under the terms of the Pension Plan, the lump sum that was to be paid to Decedent is payable instead to Decedent's estate.

Decedent's Last Will and Testament designates Taxpayer as the sole Executor and beneficiary of Decedent's estate.

As the sole Executor of Decedent's estate, Taxpayer intends to direct the payment of the lump sum distribution from the Pension Plan to Decedent's estate and then receive the lump sum distribution as the sole beneficiary of Decedent's estate. Taxpayer intends to roll over the assets distributed from the Pension Plan into an individual retirement account (IRA) maintained in Taxpayer's name, within 60 days of the date that the lump sum distribution is received by the estate.

Taxpayer represents that any IRA maintained in Taxpayer's name will satisfy the requirements of section 408 at all times.

REQUESTED RULINGS

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

1. Taxpayer, the surviving spouse of Decedent, will be treated as having acquired the distribution from the Pension Plan directly, and not from Decedent's estate.
2. Taxpayer is eligible to roll over the distribution from the Pension Plan to the IRA, pursuant to IRC §402(c)(9), provided that the rollover is completed within 60 days after the date the distribution is made from the Pension Plan.
3. To the extent that the amount distributed from the Pension Plan is timely rolled over to the IRA, it will be excluded from Taxpayer's income under section to IRC §402(c)(1) of the Code and Taxpayer will not be required to include the distribution in his gross income for federal income tax purposes in the taxable year in which paid.

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 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 417(a)(1) provides that a plan meets the requirements of section 401(a)(11) only if, under the plan, each participant may elect at any time during the applicable election period to waive the qualified joint and survivor annuity form of benefit. Section 417(a)(2)(A) provides that each plan shall provide that an election under paragraph (1)(A) shall not take effect unless (i) the spouse of the participant consents in writing to such election, (ii) such election designates a beneficiary (or a form of benefits) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the participant without any requirement of further consent by the spouse), and (iii) the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public.

Section 408A(d)(3) contains a special rule that applies for a rollover to a Roth IRA from a qualified plan (other than from a designated Roth account), which provides in part that, notwithstanding section 402(c), there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution.

ANALYSIS

Because Decedent properly elected to receive the benefit as a lump sum distribution, but died after completing the necessary paperwork to receive such distribution and before payment was made to Decedent, Decedent's benefit under the Pension Plan is payable as a lump sum distribution to Decedent's estate. Under the terms of Decedent's Last Will and Testament, Taxpayer, Decedent's surviving spouse, is the sole Executor and sole beneficiary of Decedent's estate. As sole Executor, Taxpayer can direct the lump sum distribution from the Pension Plan to be paid to Decedent's estate and then to Taxpayer as Decedent's estate's sole beneficiary. Under these circumstances, because the lump sum distribution from the Pension Plan will be paid to Decedent's spouse, section 402(c) applies to the payment in the same manner as if the spouse were the Decedent. Therefore, the distribution may be treated as being paid from the Pension Plan to Taxpayer for purposes of section 402(c). Thus, Taxpayer may roll over the lump sum distribution into one or more IRAs set up and maintained in Taxpayer's name.

RULINGS

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

1. Taxpayer, the surviving spouse of Decedent, will be treated as having acquired the distribution from the Pension Plan directly, and not from Decedent's estate.
2. Taxpayer is eligible to roll over the distribution from the Pension Plan to the IRA, pursuant to IRC §402(c)(9), provided that the rollover is completed within 60 days after the date the distribution is made from the Pension Plan.

3. Except in the case of a rollover to a Roth IRA, to the extent that the amount distributed from the Pension Plan is timely rolled over to the IRA, it will be excluded from Taxpayer's income under section 402(c)(1) of the Code and Taxpayer will not be required to include the distribution in his gross income for federal income tax purposes in the taxable year in which paid.

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) of the Code 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,

Neil Sandhu
Senior Technician Reviewer
Qualified Plans Branch 1
Office of the Associate Chief Counsel
(Employee Benefits, Exempt Organizations, and
Employment Taxes)

cc: