Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:FIP:B04
PLR-141972-14

Date:
April 23, 2015

Taxpayer =
Contract 1 =

Contract 2 =

Individual A =
Date 1 =
Company M =
Company N =
Date 2 =
Date 3 =
Individual B =
Date 4 =
Date 5 =
Year X =

Dear :

This responds to your request for a ruling received October 30, 2014, and subsequent information, submitted on your behalf by your authorized representative. Taxpayer requests a ruling concerning the application of § 72(s) of the Internal Revenue Code of 1986, as amended (the "Code"), to payments she is receiving under annuity contracts.

FACTS

Taxpayer, an individual, was named a partial, non-spouse beneficiary under two separate annuity contracts, Contract 1 and Contract 2, owned by Individual A. Contract 1 was issued by Company M and Contract 2 was issued by Company N. Individual A died on Date 1. After Individual A's death, Company M and Company N (collectively, the "Companies") sent Taxpayer forms to be completed setting forth distribution options.

Taxpayer elected the ten-year payout option under her beneficiary share of Contract 1 and Contract 2 and represents she timely provided the election forms to Company M on Date 2 and Company N on Date 3.

Individual B had a competing claim to proceeds from Contract 1 and Contract 2 and therefore retained counsel to represent her interests in the annuity contracts. On Date 4, before the Companies had made any distributions to Taxpayer, Individual B's counsel wrote letters to Company M and Company N, requesting they defer disbursement under Contract 1 and Contract 2 pending the conclusion of the legal dispute regarding the beneficiaries. As a result of the letters from Individual B's counsel, Company M and Company N froze the distributions from Contract 1 and Contract 2.

Approximately a year after first writing the Companies, Individual B's counsel wrote letters to Company M and Company N, notifying them that Individual B released any claim to the proceeds of Contract 1 and Contract 2. The legal dispute regarding the beneficiaries was finally resolved on Date 5, more than a year after the death of Individual A on Date 1.

Company M and Company N notified Taxpayer that the ten-year payout option elected by Taxpayer was no longer available to her as an option. The Companies determined that, based on § 72 of the Code, since more than one year had passed since the death of Individual A, the entire proceeds payable to Taxpayer as a beneficiary must be paid out within five years from the death of Individual A. In Year X, Company M made distributions from Contract 1 to Taxpayer. Also in Year X, Company N made distributions from Contract 2 to Taxpayer.

LAW AND ANALYSIS

Section 72(s)(1) of the Code provides that a contract shall not be treated as an annuity contract for federal income tax purposes unless it provides that—

(A) if any holder of such contract dies on or after the annuity starting date and before the entire interest in such contract has been distributed, 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, and

(B) if any holder of such contract dies before the annuity starting date, the entire interest in such contract will be distributed within five years after the death of such holder.

However, § 72(s)(2) provides an exception if—

(A) any portion of the holder's interest is payable to (or for the benefit of) a designated beneficiary,

(B) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (over a period not extending beyond the life expectancy of such beneficiary), and

(C) such distributions begin no later than one year after the date of the holder's death or such later date as the Secretary of Treasury may be regulations prescribe,

then for purposes of paragraph (1), the portion referred to in subparagraph (A) shall be treated as distributed on the day on which such distributions begin.

Section 72(s)(4) defines the term "designated beneficiary" to mean any individual designated a beneficiary by the holder of the contract.

The time by which distributions to a designated beneficiary making the election under § 72(s)(2)(C) must begin is fixed by the Code and has not been extended by the Income Tax Regulations. Taxpayer timely elected ten-year payout options for Contract 1 and Contract 2. However, Company M and Company N did not begin distributions until 2014, more than a year after the death of Individual A on Date 1. Therefore, under § 72(s) of the Code, the entire proceeds payable to Taxpayer as a designated beneficiary must be paid out within five years of the death of Individual A on Date 1.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. 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.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This ruling 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,

Sarah E. Lashley
Assistant to Branch Chief, Branch 4
(Financial Institutions & Products)

cc: