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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:EEE:EB:QP1
PLR-129378-19
Date:
June 01, 2020

Legend:

Trust A =
Trust B =

Custodian =
Decedent C =
Child D =
Child E =
Child F =
State G =
Date 1 =
Date 2 =
Date 3 =
Year 1 =
Year 2 =

Dear :

This letter responds to Trust A's request, dated December 2, 2019, as supplemented by correspondence dated February 26, 2020, for a ruling that Trust A meets the requirements in § 1.401(a)(9)-4, Q&A-5, of the Income Tax Regulations to be a see-through trust.

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

Decedent C established Trust A (an irrevocable trust) and Trust B (a revocable trust) prior to Decedent C's death. Upon Decedent C's death, Trust B became irrevocable.

Decedent C named Trust B as beneficiary of Decedent C's two individual retirement accounts (IRAs) held by Custodian. Trust A was not a beneficiary of Decedent C's IRAs. Trust B specifically named Decedent C's three children, Child D, Child E, and Child F, as beneficiaries of Trust B's assets, including Decedent C's two IRAs. Child D is the oldest of the three children.

Decedent C died before attaining age 70½ on Date 1 in Year 1 and had not yet begun taking required minimum distributions from the IRAs.

Year 2 is the year immediately following Year 1. On Date 2 of Year 2 (a date prior to September 30 of Year 2), an agreement was executed for the merger of Trust B into Trust A. The merger agreement was effective as of Date 3 (also a date prior to September 30 of Year 2).

Prior to the merger, both Trust A and Trust B were valid under the laws of State G. Following the merger, Trust A remains valid under the laws of State G.

Trust A's trustees provided a copy of Trust A, Trust B, and the merger agreement to the Custodian prior to October 31 of Year 2.

Trust A included additional provisions not included in Trust B that provide discretion to Trust A's trustees to change the rights of Child D, Child E, and Child F to Trust A's assets following the date of Decedent C's death.

The terms of the merger agreement of Trust B into Trust A provide that Trust A assumed all of Trust B's assets subject to Trust B's liabilities. You represent that, as a result, pursuant to State G law Trust A's trustees therefore have no discretion at any time after the merger to alter any rights with respect to the assets of Trust B, including any change with respect to the beneficiaries of the IRAs. You accordingly represent that the provisions of Trust A do not affect the rights of the beneficiaries of Trust B to the assets of the IRAs as of the date of Decedent C's death.

Based on the above, you, through your authorized representatives, request a ruling that the requirements of § 1.401(a)(9)-4, Q&A-5, are satisfied so that the assets of the two IRAs may be distributed to the beneficiaries using the remaining life expectancy of the oldest beneficiary, Child D.

With respect to your ruling requests, section 401(a)(9)(A) provides, in general, that a trust will not be considered qualified unless the plan provides that the entire interest of each employee--

(i) will be distributed to such employee not later than the required beginning date, or

(ii) will be distributed, beginning not later than the required beginning date, over the life of such employee or over the lives of such employee and a designated beneficiary or

over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary.

Section 401(a)(9)(B)(ii) provides that when an employee dies before the distribution of the employee's interest has begun in accordance with section 401(a)(9)(A)(ii), the entire interest of the employee will be distributed within 5 years after the death of such employee (the "5-year rule").

Section 401(a)(9)(B)(iii) provides an exception to the 5-year rule: if —
(I) any portion of the employee's interest is payable to (or for the benefit of) a designated beneficiary,

(II) such portion will be distributed over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

(III) such distributions begin not later than 1 year after the date of the employee's death or such later date as the Secretary may by regulations prescribe,

for purposes of clause (ii), the portion referred to in subclause (I) shall be treated as distributed on the date on which such distributions begin.

Section 401(a)(9)(C) provides, in relevant part, that, for purposes of section 401(a)(9), the term "required beginning date" means April 1 of the calendar year following the calendar year in which the employee attains age 70½ .

Section 401(a)(9)(E) provides that for the purpose of section 401, the term "designated beneficiary" means any individual designated as a beneficiary by the employee.

Section 1.401(a)(9)-3, Q&A-3(a), provides that if the spouse is not the sole designated beneficiary, distributions are required to begin on or before the end of the calendar year immediately following the calendar year in which the employee died.

Section 1.401(a)(9)-4, Q&A-1, provides, in relevant part, that a designated beneficiary is an individual who is designated as a beneficiary under the plan. An individual may be designated as a beneficiary under the plan either by the terms of the plan or, if the plan so provides, by an affirmative election by the employee (or the employee's surviving spouse) specifying the beneficiary. A designated beneficiary need not be specified by name in the plan in order to be a designated beneficiary so long as the individual who is to be the beneficiary is identifiable under the plan. The member of a class of beneficiaries capable of contraction or expansion will be treated as being identifiable if it is possible to identify the class member with the shortest life expectancy. Further, the passing of an employee's interest to an individual under a will or otherwise under applicable state law will not make that individual a designated beneficiary under section 401(a)(9)(E) unless that individual is designated as a beneficiary under the plan.

Section 1.401(a)(9)-4, Q&A-3, provides that only individuals may be designated beneficiaries for purposes of section 401(a)(9). A person who is not an individual, such as the employee's estate or a charitable organization, may not be a designated beneficiary. If a person other than an individual is designated as a beneficiary of an employee's benefit, the employee will be treated as having no beneficiary for purposes of section 401(a)(9), even if there are also individuals designated as beneficiaries.

Section 1.401(a)(9)-4, Q&A-4, provides in relevant part, that in order to be a designated beneficiary, an individual must be a beneficiary as of the date of the employee's death. Generally, an employee's designated beneficiary will be determined based on the beneficiaries designated as of the date of death who remain beneficiaries as of September 30 of the calendar year following the calendar year of the date of death.

Section 1.401(a)(9)-4, Q&A-5(a), provides that if the requirements under § 1.401(a)(9)-4, Q&A-5(b), are met with respect to a trust that is named as the beneficiary of an employee under a plan, the beneficiaries of the trust with respect to the trust's interest in an employee's benefit (and not the trust itself) will be treated as having been designated as beneficiaries of the employee for purposes of determining the distribution period under section 401(a)(9). Such a trust is sometimes referred to as a see-through trust.

Section 1.401(a)(9)-4, Q&A-5(b), provides that, if during any period during which required minimum distributions are being determined by treating the beneficiaries of the trust as designated beneficiaries of the employee, the following requirements must be met:

(1) the trust is valid under state law or would be but for the fact there is no corpus.

(2) the trust is irrevocable or will, by its terms, become irrevocable upon the death of the employee.

(3) the beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the employee's benefit are identifiable within the meaning of § 1.401(a)(9)-4, Q&A-1, from the trust instrument.

(4) relevant documentation described in § 1.401(a)(9)-4, Q&A-6, has been timely provided to the plan administrator.

Section 1.401(a)(9)-4, Q&A-6(b), provides that to satisfy the documentation requirement for required minimum distributions after the death of the employee, the relevant documentation must be provided to the plan administrator by October 31 of the calendar year immediately following the calendar year in which the employee died. Such relevant documentation may be a copy of the actual trust document for the trust that is named as a beneficiary of the employee under the plan as of the employee's date of death.

Section 1.401(a)(9)-4, Q&A-5(c), provides that if the trust has more than one beneficiary, the rules under § 1.401(a)(9)-5, Q&A-7, determine which beneficiary's life expectancy shall be used to determine the distribution period.

Section 1.401(a)(9)-5, Q&A-7(a), provides that if more than one individual is a designated beneficiary, the beneficiary with the shortest life expectancy will be the designated beneficiary for purposes of determining the applicable distribution period.

The Further Consolidated Appropriations Act, 2020, P. L. 116-94 (the Act), was enacted on December 20, 2019. Division O of the Act, titled "Setting Every Community Up for Retirement Enhancement Act of 2019" (SECURE Act), amended section 401(a)(9) with respect to individuals who die after December 31, 2019. The amended provisions do not apply in this case because Decedent C died prior to the applicability date of the SECURE Act amendments.

RULING

Trust A will be considered a see-through trust and the beneficiaries will be treated as designated as beneficiaries of the IRAs under section 401(a)(9), if the requirements of § 1.401(a)(9)-4, Q&A-5(b), are satisfied.

Your request states, and we assume for purposes of this ruling, that Trust A and Trust B have, at all applicable times, been valid under the laws of State G, that Trust A and Trust B were irrevocable from the date of Decedent C's death, and that a copy of Trust A, Trust B, and the merger agreement of Trust A and Trust B were provided to the Custodian by October 31 of the year following the year of Decedent C's death (as required by § 1.401(a)(9)-4, Q&A-6). Therefore, the remaining question is whether the beneficiaries of Decedent C's two IRAs are identifiable within the meaning of § 1.401(a)(9)-4, Q&A-1, and § 1.401(a)(9)-4, Q&A-5(b)(3). A class of beneficiaries will be treated as identifiable if the beneficiary with the shortest life expectancy can be identified. Only individuals may be designated beneficiaries.

Decedent C named Trust B as beneficiary of Decedent C's two IRAs. As of the date of Decedent's C's death, Decedent's three children, Child D, Child E, and Child F, were the only beneficiaries of Trust B and, accordingly, the only beneficiaries of Decedent C's two IRAs. Trust B was subsequently merged into Trust A, with Trust A surviving. Notwithstanding language included in Trust A, the rights of Child D, Child E, and Child F to the IRAs as beneficiaries of Trust B could not be altered pursuant to the terms of the merger agreement.

Under these facts, Child D, Child E, and Child F were the only possible beneficiaries of Decedent C's two IRAs as of the date of Decedent C's death and also as of September 30 of Year 2, the year following the year in which Decedent C died. Accordingly, Child D, Child E, and Child F are identifiable beneficiaries of Decedent C's

IRAs within the meaning of § 1.401(a)(9)-4, Q&A-1, and the see-through trust rules in § 1.401(a)(9)-4, Q&A-5.

Accordingly, we rule that Trust A meets the see-through trust requirements in § 1.401(a)(9)-4, Q&A-5. Thus, as provided in § 1.401(a)(9)-5, Q&A-7(a), the assets of the two IRAs may be distributed to the beneficiaries using the remaining life expectancy of the oldest beneficiary, Child D.

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 letter assumes that all provisions of Trust A and Trust B, the merger of Trust B into Trust A, and all actions by the trustees discussed or referenced in this letter comply with the laws of State G.

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

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2020-1, 2020-1 I.R.B. 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material 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 change during the course of the transaction. See Rev. Proc. 2020-1, § 11.05.

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: