

**Internal Revenue Service**

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:  
CC:PSI:2 - PLR-137754-01  
Date:  
March 21, 2002

X =

A =

B =

C =

D =

D1 =

IRA 1 =

IRA 2 =

Trust 1 =

Trust 2 =

Dear :

This letter responds to your letter dated April 2, 2001, and subsequent correspondence submitted by you as the authorized representative of X, requesting a ruling under § 643 of the Internal Revenue Code.

The information submitted states that X is the owner of two individual retirement accounts, IRA 1 and IRA 2 (collectively, the IRAs), which X represents as being qualified plans under § 408. On D1, X established Trust 1 and Trust 2 (collectively, the Trusts). The Trusts are revocable during X's life, and become irrevocable upon X's death. X has designated Trust 1 as the primary beneficiary of IRA 1 and Trust 2 as the primary beneficiary of IRA 2. X has further designated that the minimum required distributions (MRDs) payable by the IRAs to the Trusts shall be determined using the life expectancies of X and the oldest designated beneficiary of the Trust receiving

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distributions from that IRA. The Trusts will have no assets other than the MRDs received from the IRAs.

A, B, C, and D are the beneficiaries of Trust 1 during their lifetimes. C and D are the beneficiaries of Trust 2 during their lifetimes. Both Trusts contain provisions allowing additional beneficiaries to be added to the Trusts during X's life. During X's life, X will be entitled to receive all of the MRDs received by the Trusts. After X's death, the Trusts provide that the MRDs received by the Trusts shall be divided into equal shares for the beneficiaries of the respective Trusts and currently paid to the respective beneficiaries or for their benefit. Trust 2 provides that the MRDs received may be reallocated among the beneficiaries within certain discretionary powers of the trustee, but that the entire amount of the MRDs received during the year will be distributed currently.

X requests a ruling that the payments made after X's death to the Trusts will be included in the distributable net income (DNI) of the Trusts, deductible by the Trusts, and taxable to the beneficiaries in the year paid to the beneficiaries.

Section 691(a)(1) of the Code provides that the amount of all items of gross income in respect of a decedent which are not properly includable in respect of the taxable period in which falls the date of the decedent's death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income, for the taxable year when received, of: (A) the estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent; (B) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or (C) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

Section 661(a) provides that in any taxable year there shall be allowed as a deduction in computing the taxable income of an estate or trust (other than a trust to which subpart B applies), the sum of (1) any amount of income for such taxable year required to be distributed currently (including any amount required to be distributed which may be paid out of income or corpus to the extent such amount is paid out of income for such taxable year); and (2) any other amounts properly paid or credited or required to be distributed for such taxable year; but such deduction shall not exceed the distributable net income (DNI) of the estate or trust.

Section 643(a) provides that the term "distributable net income" (DNI), means, with respect to any taxable year, the taxable income of the estate or trust computed with the modifications provided in §§ 643(a)(1) through (7).

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Based solely on the facts and representations submitted, we conclude that the payments to the Trusts from the IRAs constitute ordinary gross income in respect of a decedent of the Trusts under § 691. We further conclude that these payments will be deductible by the Trusts as amounts properly paid or distributed under § 661(a)(2) to the extent of the DNI of each Trust and taxable to the beneficiaries in the year paid to the beneficiaries.

Except as set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the Code.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely yours,  
J. THOMAS HINES  
Chief, Branch 2  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures: 2  
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