

200438049

Uniform Issue List: 402.00-00

JUN 24 2004

Legend:

Plan A=

Individual B=

Dear :

This is in response to your letter dated January 31, , in which you request a ruling regarding the taxation of distributions from Plan A, a section plan. Specifically, you request a ruling that distributions made under a nontransferable annuity contract purchased by Plan A will be subject to tax when received.

In your letter you state that Individual B, your brother, was a participant in Plan A. Last year, died at age prior to commencement of benefit distributions, and named you as the designated beneficiary. Under the terms of Plan A, you must choose to have your deceased 's plan benefits either paid to you in a lump sum or used to purchase a nontransferable annuity on your behalf. The annuity contract must be purchased from an insurance company or other corporation approved by the employer and shall be a single premium, immediate or deferred annuity contract providing a pension for the beneficiary for life.

Section 401 of the Internal Revenue Code (the Code), states the requirements for plan qualification. Sections 401(f) and 401(g) provide that a nontransferable annuity contract can satisfy the qualification requirements described in section 401. Section 402(a) provides generally that distributions from qualified plans are taxed in the distributee's taxable year in which distributed.

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Section 1.402(a)-1(a)(2) provides generally that if an annuity contract with a cash surrender value is distributed, such cash surrender value will not be considered income unless and until the contract is surrendered.

Based on the foregoing, we conclude that if you choose to accept a nontransferable annuity contract under Plan A, you will be taxed only on the amount actually distributed to you each year under the contract. Distributions under the contract representing previously taxed amounts, if any, are not includible in income.

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

If you have any questions about this ruling, please contact _____, ID number _____, at _____. Please address all correspondence related to this matter to _____.

Sincerely,

_____, Manager
Employee Plans Technical Group 4

Enclosures:
Deleted copy of ruling letter
Notice of Intention to Disclose, Notice 437