DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

201441028

JUL 16 2014

Uniform Issue List: 408.03-00

T:EP:RA:T3

Legend:

Taxpayer A =

Plan A =

Certificate Z =

IRA X =

IRA Y =

Company B =

Company C =

Company D =

Company E =

Dear

This is in response to your request dated August 6, 2013, as supplemented on April 21, 2014, submitted by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

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

Taxpayer A represents that his employer terminated Plan A in 1992 and issued Certificate Z which represented the shares of employer stock in his Plan A account. Certificate Z was delivered directly to Company B as custodian of IRA X. In 2009, Taxpayer A decided to move his IRA account to Company C, and on October 28, 2009 executed a customer account transfer request to transfer the assets of IRA X to IRA Y. Company D serves as custodian for Company C accounts. Company C was acquired by Company E in November, 2009. As part of the IRA transfer, all assets of IRA X were transferred to IRA Y except for Certificate Z, which was rejected by Company D. While Company D and Company B attempted to resolve the rejection issue, neither Company notified Taxpayer A that Certificate Z had not been successfully transferred. Certificate Z remained in Company D's vault until an internal audit in May of 2012. At that time Certificate Z was returned to Taxpayer A, and Taxpayer A first became aware of the fact that Certificate Z had not been successfully transferred.

Taxpayer A contacted Company E when he received Certificate Z to ask why he received it when he believed it was held in IRA Y. At no time did Taxpayer A request Certificate Z and he always assumed that Certificate Z was in IRA Y.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60 day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Certificate Z.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) of the Code do not apply to any amount required to be distributed under section 408(a)(6) of the Code.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code 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. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover was caused by the failure of Company C, Company D and Company E to complete the transfer of assets as requested.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Certificate Z from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to transfer Certificate Z to an IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Certificate Z will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter 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.

Pursuant to the power of attorney on file with this office, copies of this letter ruling are being sent to your authorized representatives.

If you wish to inquire about this ruling, please contact ***** ****** (ID**********) at (***) ***-**** Please address all correspondence to SE:T:EP:RA:T3 .

Sincerely yours,

Laura B. Warshawsky, Manager,
Employee Plans Technical Group 3

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

cc: