



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
December 21, 2000

Number: **200105062**
Release Date: 2/2/2001
UIL: 6654.00-00

CC:PA:APJP:1:RADesilets
TL-N-6700-00

MEMORANDUM FOR ASSOCIATE AREA COUNSEL (SBSE), BROOKLYN, NY
CC:SB:1:BRK
Attn: Patricia A. Riegger

FROM: Pamela W. Fuller
Acting Branch Chief, Branch 1
(Administrative Provisions and Judicial Practice)

SUBJECT: Significant Service Center Advice

This responds to your request for Service Center Advice in connection with the question concerning the application of § 6654 of the Internal Revenue Code (individual estimated tax) and §§ 408(d) (tax treatment of distributions from individual retirement accounts) and 408A (conversions from a traditional IRA to a Roth IRA) of the Code.

Issue

May the Service abate the individual estimated tax penalty in cases in which the penalty is based upon the additional income reported for the taxable year pursuant to a roll-over from a traditional IRA to a Roth IRA?

Conclusion

The Service may not abate the individual estimated tax penalty in cases in which the penalty is based upon the additional income reported for the taxable year pursuant to a roll-over from a traditional IRA to a Roth IRA.

Facts

On November 14, 2000, a request for advice was received by the Associate Area Counsel, Brooklyn, New York, from the Analyst for the Adjustments Branch at the Accounts Management Center at the Brookhaven IRS Campus. According to the request, Adjustments has received a significant number of requests for abatement from taxpayers who were assessed an estimated tax underpayment penalty for the 1999 tax year under § 6654 of the Code. The Service assessed the underpayment penalty

TL-N-6700-00

against those taxpayers who failed to include the income recognized from the conversion of traditional IRAs to Roth IRAs in their estimated tax payments.

Discussion

The Regulations expressly provide that any amount that is converted to a Roth IRA is includible in gross income. Treas. Reg. § 1.408A-4, Q&A-7. Therefore, the conversion from a traditional IRA to a Roth IRA constitutes a taxable distribution of income to the taxpayer seeking such conversion. I.R.C. §§ 408A(d)(3)(C) and 408A(d)(3)(A)(i) and (iii). See also, Publication 590, Individual Retirement Arrangements (IRAs), p. 39 (1998). Absent a waiver, a taxpayer who converts from a traditional IRA to a Roth IRA must include the income realized as a result of the conversion in his or her estimated tax calculations. The circumstances under which the estimated tax penalty may be waived are found at § 6654(e)(3) of the Code. Section 6654(e)(3) limits the waiver of the estimated tax penalty to those situations in which the underpayment is the result of “casualty, disaster, or other unusual circumstances.” The waiver provisions do not apply to the present situation. Therefore, because the conversion from a traditional IRA to a Roth IRA constitutes a taxable distribution of income which must be included in a taxpayer’s estimated tax payments, the Service may not abate the estimated tax penalty if the underpayment is the result of the conversion from a traditional IRA to a Roth IRA.

If you have any questions, please contact Rob Desilets, Jr. at (202)622-4910.