



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

200615030

JAN 18 2006

Uniform Issue List: 408.03-00

SE: T: EP: RA: T: 1

Legend:

Taxpayer A =

IRA C =

Financial Institution D =

Account E =

Financial Institution F =

Amount G =

Dear :

This letter is in response to a request for a letter ruling dated August 1, 2005, as supplemented by additional information dated October 22, 2005, December 2, 2005, and December 13, 2005, in which you have applied for a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

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

Taxpayer A, age 49, represents that she received a distribution from IRA C totaling

Amount G. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to misinformation provided by Financial Institution D.

Taxpayer A maintained IRA C, an Individual Retirement Account ("IRA") under Code section 408(a), with Financial Institution D. Prior to taking a distribution, Taxpayer A represents that she telephoned and spoke with a representative of Financial Institution D concerning the 60-day rollover period. Taxpayer A told the representative she was worried she would not be able to roll over the distribution back into IRA C within the 60 days. The representative for Financial Institution D informed Taxpayer A that she could receive an extension of the 60-day period, from Financial Institution D, if she was not able to settle on the sale of her home within the 60-day period. Relying on this information, Taxpayer A received a distribution from IRA C, Amount G, on

On believing she would not be able to meet the 60-day period, Taxpayer A telephoned Financial Institution D to request an extension. Another representative of Financial Institution D informed Taxpayer A that they did not have the authority to extend the 60-day period. The funds became available to Taxpayer A for redeposit into IRA C on Financial Institution D submitted a statement acknowledging that Taxpayer A was given erroneous advice concerning a possible extension of the 60 day rollover period.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in Code section 408(d)(3) with respect to the distribution of Amount G.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), 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 60<sup>th</sup> 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 60<sup>th</sup> 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)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) 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) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

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) do not apply to any amount required to be distributed under section 408(a)(6).

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), 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 the documentation submitted by Taxpayer A and Financial Institution D is consistent with her assertion that her failure to accomplish a timely rollover was caused by misinformation provided by Financial Institution D, the administrator of IRA C.

Therefore, pursuant to Code section 408(d)(3), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount G from IRA C. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount G into IRA C or another Rollover IRA. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to

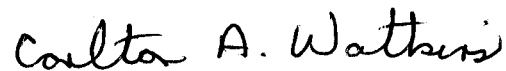
such contribution, Amount G will be considered a rollover contribution within the meaning of section 408(d)(3).

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.

If you wish to inquire about this ruling, please contact \_\_\_\_\_, SE:T:EP:RA:T1, I.D.  
, at \_\_\_\_\_.

Sincerely yours,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

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Notice of Intention to Disclose, Notice 437