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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

NOV 27 2006

Uniform Issue List: 408.03-00

T:EP:RA:T3

Legend:

Company A =
Company B =
Individual F =
Amount G =
Amount H =
Date J =
IRA X =

Dear

This is in response to your request for a letter ruling dated March 9, 2006, regarding the waiver of the 60-day rollover requirement, as authorized under section 408(d)(3)(I) of the Internal Revenue Code ("the Code"), with respect to the distribution of a stock certificate from IRA X. Correspondence dated May 31, 2006, and September 19, 2006, supplemented the request.

You represent that you received a distribution of a stock certificate from IRA X. You assert that your failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to an error made by Company A in notifying you of the taxability of the distribution of the stock certificate from IRA X.

You held Amount H shares of Company B stock in IRA X. The shares were represented by a stock certificate. At the end of December 2004 you approached

Individual F, a representative of Company A, and told him that you wished to withdraw your stock certificate from IRA X. A distribution of the Company B stock was made on or about Date J, 2004, and the stock certificate was received in early January, 2005.

You represent that you had no intention of taking a distribution of the stock from IRA X, and you were not aware that the transaction, which was intended solely to allow you to hold the stock certificate so that you could better manage your funds, had resulted in a distribution from IRA X. You were not informed by the IRA X custodian that withdrawing the stock certificate resulted in a distribution from IRA X.

Documentation submitted to you by Company A, and submitted to us by you, indicates that you should have received a Form 1099-R, ***Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.***, for the 2004 taxable year. However, Company A did not send you Form 1099-R until January 2006 and incorrectly indicated that the IRA X distribution had occurred in and was taxable with respect to the 2005 tax year. The Form 1099-R that you received showed that Amount G, representing the value of the shares in Company B, was distributed from IRA X. As soon as you noticed that the distribution of the stock certificate resulted in a taxable distribution from IRA X you contacted the Internal Revenue Service to determine if you could obtain a waiver of the 60-day rollover period. You assert that if you had received the 1099-R timely (within 60 days from the date of your receipt of the stock certificate) you would have effectuated a timely rollover. You are still in possession of the stock certificate.

Based on the forgoing, you request a ruling that the Service waive the 60-day rollover requirement, as authorized under section 408(d)(3)(I) of the Code, with respect to the distribution of the Company B stock certificate from IRA X

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 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)).

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 documentation submitted by you indicate that you were not given either proper or timely information by the professionals involved in this transaction. You assert that if Company A had properly informed you of the distribution from IRA X, by timely issuing a Form 1099-R, you would have rolled over the stock certificate referenced above into another IRA within 60 days from the date of receipt by you. The Company B stock certificate distributed from IRA X has remained in certificate form from its distribution in 2004 until now.

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 the Company B

stock certificate from IRA X. You are granted a period not to exceed 60 days as measured from the date of this letter ruling to contribute the stock certificate distributed from IRA X during December 2004, valued at the time of distribution at Amount G, into another IRA set up and maintained in your name. 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 said stock certificate into another IRA set up and maintained in your name will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

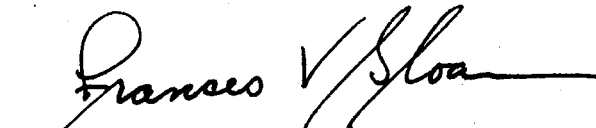
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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.

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

Sincerely yours,


Frances V. Sloan, Manager,
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose