

200719016



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Uniform Issue List 408.00-00

FEB 15 2007

T:EP:RA:TD

Legend:

Company A =

Company B =

Bank C =

Date E =

Date F =

Date G =

Amount H =

Amount J =

Amount K =

Amount L =

IRA X =

IRA Y =

Dear

This is in response to your request dated August 25, 2006, submitted by your authorized representative, for a ruling to waive the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

You represent that you received a distribution of Amount H from IRA X, and a distribution of Amount J from IRA Y. 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 mental and physical incapacities which impaired your ability to handle your financial affairs, including the rollover of Amounts H and J.

Under penalty of perjury, your authorized representative has submitted the following facts and representations:

You are 64 years old and maintained IRA X with Company A, and IRA Y with Company B. IRA X contained Amount H and IRA Y contained Amount J. On Date E, 2005 you requested a withdrawal from IRAs X and Y. You received Amounts H and J (minus applicable withholding for federal and state taxes) from the IRAs. You immediately loaned Amount K to your daughter for her purchase of a home and deposited the remaining funds in a money market account with Bank C. On Date F, 2005, you withdrew Amount L from the money market account to pay bills. You have maintained that a stroke suffered on Date G, 2003, impaired your ability to make sound financial decisions regarding IRA X and IRA Y.

Based on the facts and representations, you request 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 Amount H from IRA X. because the failure to waive such requirement would be against equity or good conscience.

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)(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.

You have not presented any evidence to the Service as to how any of the factors outlined in Rev. Proc. 2003-16 affected your ability to timely roll over Amount H and Amount J, or any portion thereof, to an IRA. It is represented that the stroke you suffered impaired your ability to make financial decisions. However, no medical documentation was submitted on your behalf which would demonstrate that you were effectively disabled and incapable of handling your financial affairs in an appropriate manner during the relevant time period. On the contrary, the facts submitted indicate otherwise. The fact that you deposited the distributions from IRAs X and Y into a money market account, loaned money to your daughter, and later paid bills with the funds belies the representation that you were unable to make financial decisions. Furthermore, the medical condition occurred approximately two years before the distribution of Amounts H and J.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service declines to waive the 60-day rollover requirement with respect to the distribution of Amounts H and J. Thus, your contributing Amount H and Amount J, or any portion thereof, into an IRA will not be considered a valid rollover because the 60-day requirement under section 408(d)(3) of the Code with respect to such distribution/contribution will not be satisfied.

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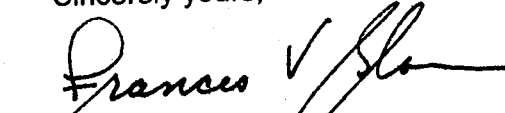
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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.

In accordance with a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

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

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frances V. Sloan".

Frances V. Sloan, Manager,
Employee Plans Technical Group

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

CC: