

200723034



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

MAR 12 2007

Uniform Issue List: 408.03-00

T:EP:RA:T3

Legend:

Decedent A	=
Company B	=
Company C	=
Company D	=
Individual F	=
Amount G	=
Date J	=
IRA X	=
Account Y	=

Dear

This is in response to your request for a letter ruling dated November 15, 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 from an individual retirement arrangement (IRA X). Correspondence dated March 9, 2007, and March 12, 2007, supplemented the request.

You are 75 years old and represent that you received a distribution from IRA X after the death of your spouse, Decedent A. IRA X was established in the name of Decedent A, and you were the beneficiary thereof. You maintain that the failure to rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to financial advisor error.

IRA X, an individual retirement annuity, was established in the name of Decedent A, your husband. Decedent A passed away on Date J, 2005. On Date K, 2006 you received Amount G from IRA X. Amount G represented the total distribution due you from IRA X as the spousal beneficiary of Decedent A.

Prior to receiving Amount G, you contacted Individual F, who had been the tax advisor for you and Decedent A, and who had assisted Decedent A in purchasing IRA X. Individual F advised you to surrender IRA X and told you that he would contact you regarding investing Amount G in other investments. Relying on this advice, you surrendered IRA X and received Amount G. Individual F never contacted you and never informed you that you had 60 days to roll over Amount G into another individual retirement arrangement. Pursuant to discussions with a representative of Company D, after the 60-day rollover period expired, you realized that you could have rolled over Amount G, and would have, if Individual F had properly informed you of that option.

You deposited Amount G within 60 days of the distribution from IRA X, in Account Y, a non-IRA money market account with Company C, where it still remains.

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 professional financial advisor on whom you had been relying. You assert that if Individual F had properly informed you of the availability to rollover the distribution from IRA X, you would have rolled over Amount G within 60 days. Amount G has remained in Account Y 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 Amount G from IRA X. You are granted a period of 60 days from the issuance of this ruling letter to

200723034

contribute Amount G, less amounts described below, into a Rollover 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, Amount G will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

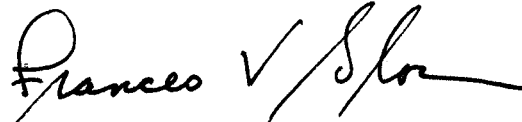
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code (the required minimum distribution).

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 _____ at
Please address all correspondence to SE:T:EP:RA:T:T3

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frances V. Sloan", with a stylized flourish at the end.

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

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose