

200725039



TAX EXEMPT AND
GOVERNMENT ENTIT
DIVISION

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

MAR 28 2007

Release Date: 6/22/07
Uniform Issue List: 408.03-00

Legend:

Taxpayer A =
Company B =
Amount C =
Amount D =
Date E =
Date F =
Date G =
IRA X =

Dear

This is in response to your request dated _____ supplemented by
additional information dated _____ submitted by your authorized
representative, in which you request a waiver of the 60-day rollover requirement
contained in section 408(d)(3) of the Internal Revenue Code.

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

Taxpayer A, age **, represents that she received a distribution from IRA X totaling
Amount D. Taxpayer A asserts that her failure to accomplish a rollover within the

60-day period prescribed by section 408 (d)(3) was due to an error by Company B which led to Amount D being placed in a non-IRA account with Company B.

Taxpayer A maintained both an individual savings account and IRA X at Company B. On Date E Amount C was transferred by Company B from IRA X into Taxpayer A's regular account as a required minimum distribution. On Date F, Amount D was distributed from IRA X into Taxpayer A's individual savings account as a second required minimum distribution. This second distribution from IRA X was due to an error by Company B. The intent of Taxpayer A was to follow the minimum distribution requirements for IRA X and those requirements had already been satisfied by the earlier distribution of Amount C on Date E. Taxpayer A received a Form 1099-R in early 2006 which reflected the distribution of Amount D from IRA X. Taxpayer A requested that Company B return Amount D to IRA X. Company B confirmed by a letter to Taxpayer A that on Date G Amount D had been returned to IRA X.

Based on the above facts and representations, you request that the Service waive the 60-day rollover requirement with respect to the distribution of Amount D.

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 or 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 of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and (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.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359, 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 and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to an error by Company B with regard to Amount D that resulted in Amount D being placed in a non-IRA account instead of remaining in IRA X .

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 D. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day rollover requirement, are met with respect to such contribution, Amount D returned by Company B into IRA X on Date G will be considered a rollover contribution within the meaning of section 408(d)(3) 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 that may be applicable hereto.

This ruling is directed solely to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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

If you have any questions regarding this ruling, you may contact

Sincerely yours,

for /s/ Ada Perry
Donzell Littlejohn, Manager
Employee Plans Technical Group 4

Enclosures:

Notice of Intention to Disclose
Deleted copy of this letter