



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

APR 30 2007

200730024

T.E.P. RA: T4

Legend:

Taxpayer A =

IRA X =

Amount A =

Bank B =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This is in response to your request dated October 28, 2006, as supplemented by letters dated December 4, 2006 and March 23, 2007, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

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

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Taxpayer A, age 40, represents that he received a distribution from IRA X totaling Amount A. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period was caused by family and work related events. It was Taxpayer A's intention to rollover Amount A into another bank to obtain a higher rate of interest. The check issued for Amount A by Bank B has not been cashed.

IRA X was in the form of a certificate of deposit which matured. In order to prevent an automatic reinvestment of IRA X, Taxpayer A took a distribution of Amount A on Date 1. During Dates 2 and 3, Taxpayer A's child was attending summer camp. Taxpayer A transported his child to camp each day which caused him to adjust his work schedule. Due to the change in his work schedule and his heavy workload Taxpayer A was unable to go to the bank to process the rollover of Amount A. Also, during Date 3, Taxpayer A took his scheduled vacation. After regular school began in Date 4, Taxpayer A attempted to rollover Amount A, but the 60-day period had expired.

Based on the above facts and representations, Taxpayer A requests a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amount A.

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

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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 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, 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.

Based on the facts in this case, Taxpayer A's assertion that he was unable to make a timely rollover due to a series of family and work related events are not grounds for granting a waiver of the 60-day rollover period. Further, none of the factors outlined in Revenue Procedure 2003-16 have been met in this case. Thus, the Service will not grant a waiver of the 60-day rollover period contained in section 408(d)(3) of the Code with respect to Amount A.

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

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This ruling 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 by others as precedent.

If you have any questions please contact I.D. # , at ( )

Sincerely yours,

*Ada Perry*

*for* Donzell Littlejohn, Manager  
Employee Plans Technical Group 4

Enclosures:

Deleted copy of this letter  
Notice of Intention to Disclose, Notice 437