

200737047



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

*Uniform Issue List 408.00-00*

JUN 18 2007

T:EP:RA:TB

**Legend:**

Company A	=
Company B	=
Partnership C	=
Company D	=
Date H	=
Date J	=
Date K	=
Date L	=
Date M	=
Amount J	=
Amount K	=
IRA X	=
IRA Y	=

Dear

This is in response to your request dated March 8, 2007, 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"). Correspondence dated May 31, 2007, supplemented the request.

Under penalty of perjury, you have submitted the following facts and representations:

You are over 70 ½ years of age, and represent that you received two distributions from IRA X (Amount J and Amount K). 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 a mistake made by Company B and Company D which led to Amount J and Amount K being placed into a non-IRA account. You further represent that Amounts J and K have not been used for any other purpose.

You maintained IRA X with Company A. On Date H, 2005, you authorized your investment advisor, Company D, to liquidate a portion of the shares in IRA X held at Company A. On Date J, 2005, Amount J was transferred from IRA X to Company B with the intent of purchasing an interest in Partnership C. It was your intent that the funds were to be held in an IRA with Company B.

On Date K, 2005, you authorized your investment advisor, Company D, to liquidate additional shares in IRA X. On Date K, 2005, Amount K was transferred from IRA X to Company B with the intent of purchasing an interest in Partnership C. It was your intent that the funds were to be held in an IRA with Company B.

In both instances noted above, however, because of Company B and Company D errors, the newly purchased interest in Partnership C was not held by a qualified IRA custodian, nor was an IRA opened.

Documentation submitted by you, including statements received from Company B, and a 2005 Schedule K-1, issued to you, which reflected that your investment was being held in an IRA, demonstrates that, at all times, both you and Company D believed your funds were validly invested in an IRA. It was not until Date L, 2007 that you learned that Amounts J and K were not held in an IRA. On Date M, 2007, you transferred your entire interest into IRA Y.

Based on the facts and representations, you request that the Internal Revenue Service waive the 60 day rollover requirement with respect to distributions from IRA X.

With respect to your ruling request, 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 is consistent with your assertion that your failure to accomplish a timely rollover was caused by mistakes made by Company B and Company D, which led to Amounts J and K being placed into a non-IRA account. The information presented by you is consistent with your assertion that you attempted to rollover Amount J and Amount K.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover requirement with respect to the distributions of Amounts J and K from IRA X (less amounts described below). Provided all other requirements of section 408(d)(3) of the Code (except the 60-day requirement) are met with respect to Amounts J and K, the transfer of such amounts into IRA Y on Date M, 2007, will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

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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).

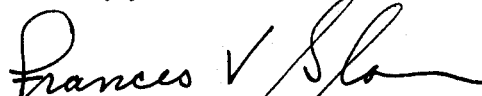
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Frances V. Sloan".

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

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose

CC