



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

200751032

SEP 25 2007

Uniform Issue List: 408.03-00

TERMINALITY

Legend:

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

IRA Y	=
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Dear :

This is in response to your request dated January 26, 2006, as supplemented by additional correspondence dated August 29, 2007, 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 Code).

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

Taxpayer A, age 62, represents that he received a distribution on Date G from IRA X totaling Amount E, and Taxpayer B, age 58, spouse of Taxpayer A, represents that she also received a distribution on Date G from IRA Y totaling Amount F. Taxpayers A and B assert that their failure to accomplish rollovers within the 60-day period prescribed by section 408 (d)(3) of the Code was due to their medical conditions and also lack of knowledge of the IRA distribution rules because they are recent immigrants from . Taxpayers A and B represent that Amount E and Amount F have not been used for any other purpose.

Taxpayer A closed IRA X on Date G and received a distribution of Amount E while Taxpayer B closed IRA Y on the same date and received a distribution of Amount F. Taxpayers A and B were dissatisfied with the earnings on their investments with Company C, and were in the process of evaluating a number of other investments. On Date H Amounts E and F were deposited into their joint savings account at Bank D where such amounts remain. Within the last ten days of the 60-day rollover period, Taxpayer B underwent an operation that was completed on a one-day basis and did not require a hospital stay. A medical report issued by the hospital indicated that Taxpayer B could resume her normal work schedule within approximately one month following the operation. In addition, Taxpayer A suffered from an ongoing heart condition that eventually required surgery and hospitalization sometime after the expiration of the 60-day rollover period. As a result of these conditions and their lack of a full understanding of the tax rules pertaining to distributions from IRAs, Taxpayers A and B assert that they were not able to successfully complete IRA rollovers within the 60-day period prescribed by law. The total amount of the IRA distributions remains in Taxpayers A and B's joint savings account at Bank D.

Based on the above facts and representations, Taxpayers A and B request that the Service waive the 60-day rollover requirement with respect to the distribution of Amounts E and F.

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)(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 presented by Taxpayers A and B demonstrates that they took distribution of Amounts E and F from IRA X and IRA Y respectively because they were dissatisfied with the earnings on their investments. However, no evidence was presented to the Service as to how any of the factors outlined in Revenue Procedure 2003-16 affected their ability to timely rollover Amounts E and F. No documentation was submitted that the medical condition of either Taxpayer A or B was such as to prevent them from completing a timely rollover or that the failure to deposit Amounts E and F within the 60 day rollover period was beyond the control of Taxpayer A and B.

Therefore, the Service declines to waive the 60 day rollover requirement with respect to the distribution of Amounts E and F.

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 taxpayers 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
at

Sincerely yours,

A handwritten signature in black ink, appearing to read "Donzell Littlejohn".

, Manager

Employee Plans Technical Group 4

Enclosures:

Notice of Intention to Disclose
Deleted copy of this letter

cc: