



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL - 6 2010

U.I.L. 408.03-00

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T: EP: RA: T3

Legend:

- Taxpayer A = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- IRA X = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Company B = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Amount C = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Amount D = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Amount P = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Company B = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Date E = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Date F = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Date H = XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- Bank M = XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxxx:

This letter is in response to your letter dated xxxxxxxxx, as supplemented by correspondence dated xxxxxxxxx, 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 penalties of perjury in support of your request.

Taxpayer A represents that he was the owner of IRA X, a qualified individual retirement arrangement ("IRA") established and maintained at Company B under the rules of section 408 of the Code. On Date E, Taxpayer A represents that he received a distribution of Amount C from IRA X and deposited the distribution amount into a non-IRA account with Bank M.

Taxpayer A represents that he was laid off unexpectedly on Date F which was four (4) days before the expiration of 60 day rollover period which ended on a weekend, during which the offices of Company B were closed. Taxpayer A further represents that he attempted to rollover the distribution amount into a rollover IRA with Company B, the next business day on Date H but could not do so as Company B notified Taxpayer A that they would not accept Amount C as a rollover because the 60-day rollover period had expired.

Taxpayer A states that Amount C is still intact with Bank M. Taxpayer A further requests to rollover only Amount D into a rollover IRA with Company C as he intends to make use of a portion of the distribution, Amount P, and rollover the remainder, Amount D, into a rollover IRA with Company B.

Based upon the foregoing facts and representations, Taxpayer A requests that the Service waive the 60 day rollover requirement with respect to the distribution of Amount D 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 distribute, 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 received 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 in 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 included 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 the failure to waive such requirement would be against equity and good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occur 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, or hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of 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 Taxpayer A is consistent with his assertion that his failure to accomplish a rollover of Amount D was due to the fact that the 60th day fell on a weekend and the business offices of Company B were closed. Taxpayer A avers that he contacted Company B the next business day, on Date H, and attempted to redeposit Amount D into a rollover IRA but was advised that the 60 day rollover period had already expired.

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 from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount D into a Rollover IRA.

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

This ruling is directed only to the taxpayer that 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 concerning this ruling, please contact xxxxxxxxxxxxxx, SE: T: EP: RA: T3, at xxxxxxxxxxxx.

Sincerely yours,



Frances V. Sloan, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling
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