



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

201044028

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 09 2010

Uniform Issue List: 408.03-00

SE: T: EP: RA: T1

Legend:

Taxpayer A =

IRA A =

Amount A =

Dear

This is in response to a ruling request submitted by your authorized representative dated August 28, 2009, 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 asserts that his failure to accomplish a timely rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to his issues with memory and early dementia which affected his ability to handle his financial affairs.

Taxpayer A, age 91, represents that on October , 20 , in addition to the required minimum distribution amount, he withdrew Amount A from IRA A for the purpose of reinvesting Amount A into an IRA with a higher interest rate. However, Taxpayer A inadvertently deposited Amount A between two non-qualified deposit accounts on October , 20 , and November , 20 , respectively.

Taxpayer A realized that Amount A was not deposited into qualified accounts while he was having his 20 income tax returns prepared by a CPA.

For the past few years, Taxpayer A has suffered from memory issues and dementia and had sought treatment for his condition. Taxpayer A provided documentation from his medical doctor confirming his condition. Taxpayer A asserts that these issues impaired his ability to handle his IRA rollover on October , 20 .

Based on the above facts and representations, you request a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of 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 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

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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 the documentation submitted on behalf of Taxpayer A is consistent with the assertion that the failure to accomplish a timely rollover to an eligible retirement plan such as an IRA was caused by Taxpayer A's issues with memory and early dementia which affected his ability to handle his financial affairs.

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 A. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to roll over no more than Amount A to an eligible retirement plan such as an IRA provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution. Provided no more than Amount A is contributed to an eligible retirement plan, such as an IRA, within 60 days from the issuance of this ruling letter, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3).

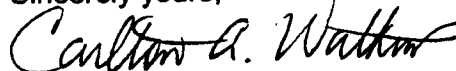
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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 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.

If you wish to inquire about this ruling, please contact
at

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

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Notice of Intention to Disclose, Notice 437

cc: