



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201127022

APR 14 2011

U.I.L. 408.03-00

XXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXX

T:EP:RA:RA:T3

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXXX

IRA X = XXXXXXXXXXXXXXXXXXXXX

Amount D = XXXXXXXXXXXXXXXXXXXXX

Bank B = XXXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXX:

This is in response to your letter dated XXXXXXXXXXXX, as supplemented by correspondence dated XXXXXXXXXXXX, XXXXXXXXXXXX XXXXXXXXXXXX, XXXXXXXXXXXX, XXXXXXXXXXXX and XXXXXXXXXXXX, submitted on your behalf 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 your request.

Taxpayer A represents that on XXXXXXXXXXXX, he received a distribution from IRA X totaling Amount D, intending to roll it over to another Individual Retirement Account which would yield him a higher rate of return as he was losing money from his current investment in IRA X.

Taxpayer A asserts that his failure to accomplish a rollover of Amount D from IRA X within the 60-day period prescribed by section 408(d)(3) of the Code was due to his wife's serious medical condition, hospitalization, the catastrophic events that afflicted his wife and the need for constant medical attention and numerous doctor visits during the 60-day rollover period, which together impaired his ability to accomplish a timely rollover.

Taxpayer A further asserts that during the 60-day period, he was a full time caregiver to his wife and that his attentions were all devoted to his wife and trying to help her and manage her medical condition and keep her alive.

Taxpayer A states that he was the person solely responsible for the daily household activities required for his wife's care, house cleaning, meals, laundry, dressing assistance, wheelchair assistance, bathing assistance and assisting with giving medication as she could do very little for herself and her mental capacity was going downhill rapidly. Taxpayer's wife subsequently died on xxxxx.

Taxpayer A states that he withdrew Amount D from IRA X on xxxxxxxxxx and on xxxxxxxxxx, deposited Amount D in his savings account with Bank B. Taxpayer A further states that he was unable to complete the rollover during the 60-day period because he was caring for his wife, whose condition was deteriorating. Amount D remains intact in his savings account with Bank B and has not been used for any other purpose.

Based upon the facts and representations, Taxpayer A requests ruling that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement with respect to Amount D.

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 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)(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 timely rollover was caused by his involvement with his wife's medical condition, hospitalization, need for constant medical attention and numerous treatments by doctors during the 60-day rollover period.

Therefore, pursuant to Code section 408(d)(3)(I), 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. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount D will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

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.

201127022

If you have any questions regarding this letter, please contact xxxxxxxxxxxxxxxx,
SE:T:EP:RA:T:3 at xxxxxxxxxxxxxxxx.

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling
Notice 437