



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

201149046

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List: 408.03-00

SEP 14 2011

SET: EP:RA T2

Legend:

Taxpayer A ***

IRA X ***

Financial Institution A ***

Financial Institution B ***

Amount 1 ***

Amount 2 ***

Account M ***

Account N ***

Date 1 ***

Date 2 ***

Dear ***:

This letter is in response to your request on November 19, 2010, supplemented with correspondence dated November 22, 2010, January 25, 2011, February 7, 2011, February 11, 2011, February 14, 2011, and March 4, 2011, in which you request a

waiver of the 60-day rollover period 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, years old, asserts that she received a distribution from IRA X totaling Amount 1 on Date 1. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code of Amount 1 from IRA X was due to several debilitating medical issues. Taxpayer A represents that Amount 1 has not been used for any purpose.

Taxpayer A asserts that she decided to close IRA X because she lost confidence in Financial Institution A after it misplaced Amount 2, a substantial sum that was invested in IRA X. Once Amount 2 was restored to IRA X, Taxpayer A closed IRA X on Date 1 and received a distribution of Amount 1, which Financial Institution A direct deposited into Account M at Financial Institution B. Taxpayer A asserts that she intended to rollover Amount 1 into another IRA after she researched other options. Taxpayer A asserts that during the 60-day rollover period was under a doctor's care and she was incapacitated by several debilitating medical issues and a severe reaction to a drug prescribed to treat one of those medical issues, which prevented her from completing the rollover within the 60-day period. Taxpayer A submitted documentation from treating physicians of her medical issues and her severe reaction to a drug prescribed to treat one of her medical issues.

Based on the facts and representations, Taxpayer A requests a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1.

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)(I) of the Code provides that the Secretary may waive the 60-day requirement under section 408(d)(3)(A) 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 (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) of the Code, 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 submitted by the taxpayer, including but not limited to a documented physician's opinion and supporting documentation from treating physicians, is consistent with the assertion that her inability to complete a timely rollover was due to her medical incapacity.

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 1 from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute Amount 1 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 contributions, Amount 1 will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

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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.

If you wish to inquire about this ruling, contact *** at () Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,


Donzell Littlejohn, Manager,
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose