



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201234031

Uniform Issue List: 408.03-00

MAY 29 2012

Legend:

T:EP:RA:T2

Taxpayer A	=	***
Spouse B	=	***
Individual C	=	***
Financial Institution D	=	***
Physician E	=	***
IRA X	=	***
Date 1	=	***
Date 2	=	***
Amount A	=	***

Dear ***:

This letter is in response to your ruling request dated October 11, 2011, as supplemented by correspondence dated March 23, 2012, in which you requested 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 60, represents that he received a distribution of Amount A from his Individual Retirement Account (IRA), IRA X, at Financial Institution D. He asserts

that his failure to accomplish a rollover of Amount A within the 60-day period prescribed by section 408(d)(3) was due to the medical condition of his son, Individual C. Taxpayer A represents that Amount A has not been used for any other purpose.

Taxpayer A represents that on Date 1, he withdrew Amount A from IRA X in anticipation of a separation or divorce from his wife, Spouse B. Taxpayer A and Spouse B intended to obtain a separation agreement that would allow Spouse B to roll over Amount A into an IRA in her name. Taxpayer A also represents that Individual C, age 7, has suffered from a psychological medical condition for several years that severely impairs his social interactions and physical well-being. During the same month as Date 1, Individual C's condition worsened, leading his physician, Physician E, to prescribe a new medication. Physician E has provided a statement that the new medication caused Individual C to have a "psychotic breakdown." This condition lasted several months, during which Individual C experienced episodes of severe aggression and paranoia, requiring constant monitoring by his parents. Taxpayer A represents that his son's illness prevented Taxpayer A from either obtaining a separation agreement permitting Spouse B to roll over Amount A to an IRA in her name, or from returning Amount A to IRA X. On Date 2, after Individual C's condition subsided, Taxpayer A deposited Amount A back into IRA X.

Based on the foregoing facts and representations, you request a ruling that the Internal Revenue Service (the Service) waive the 60-day rollover requirement with respect to the distribution of Amount A from IRA X at Financial Institution 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 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 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.

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 documentation submitted by Taxpayer A are consistent with his assertion that his failure to accomplish a timely rollover was caused by Individual C's medical condition, specifically the "psychotic breakdown" that Physician E described as occurring during the 60-day rollover period, and Taxpayer A and Spouse B's roles as primary caretaker, which resulted in Taxpayer A depositing Amount A into IRA X after the 60-day deadline.

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 from IRA X. Pursuant to this ruling letter, Taxpayer A's contribution on Date 2 of Amount A into IRA X is deemed to have been timely made and deemed to constitute a rollover contribution as long as all other requirements of Code section 408(d)(3), except the 60-day requirement, are met with respect to such IRA contribution.

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 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.

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

Sincerely,

A handwritten signature in cursive script that reads "Donzell Littlejohn".

Donzell Littlejohn, Manager
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

CC: ***