



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

201235028

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUN 07 2012

U.I.L. 408.03-00

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T.E.P. RA: T3

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXXX

Individual M = XXXXXXXXXXXXXXXXXXXXX

IRA X = XXXXXXXXXXXXXXXXXXXXX

Revocable Trust T = XXXXXXXXXXXXXXXXXXXXX

Amount D = XXXXXXXXXXXXXXXXXXXXX

Company F = XXXXXXXXXXXXXXXXXXXXX

Date 1 = XXXXXXXXXXXXXXXXXXXXX

Date 2 = XXXXXXXXXXXXXXXXXXXXX

Date 3 = XXXXXXXXXXXXXXXXXXXXX

Date 4 = XXXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxxxx:

This letter is in response to your letter dated xxxxxxxxxx, 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").

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 intended to transfer Amount D from IRA X to another IRA investment with Company F within the 60-day period. Taxpayer A asserts that his failure to accomplish a transfer within the 60-day period prescribed by section 408(d)(3) of the Code was due to the error committed by Individual M of Company F. Taxpayer A further asserts that Amount D has not been used for any other purpose.

Taxpayer A maintained IRA X with Company F. On Date 1, Individual M contacted Taxpayer A to review Taxpayer A's IRA portfolio. On Date 2, when Taxpayer A met with Individual M, he was presented with several different options to maximize his earnings in his IRA account. Individual M confirmed with a representative of Company F that the option Taxpayer A selected to maximize his earnings in his IRA was qualified as an IRA investment. As a result, Taxpayer A signed a document presented to him by Company F which he believed was to transfer Amount D from his IRA X to another IRA investment. Amount D was instead wired from his IRA X and deposited in his Revocable Trust T account and invested in a certificate of deposit. Taxpayer A states that the document he signed was in fact not the correct form to process a direct rollover of Amount D as he intended.

In January of 2011, Taxpayer A received Form 1099-R from Company F that showed a taxable distribution of Amount D as well as Form 1099-INT that represented the interest on the new Certificate of Deposit. Upon receiving the form 10999, Taxpayer A immediately called Individual M who assured Taxpayer A that a Form 5498 showing the rollover would soon follow in the mail.

Taxpayer A did not realize that Amount D was not in a qualified IRA until he received Form 1099-R in early January of 2011; at the time he contacted his accountant to prepare his income tax return for 2010. Taxpayer A's accountant, at his request, contacted Individual M and verified that Amount D was intended to be a rollover and not invested in a taxable Certificate of Deposit account. Individual M assured Taxpayer A that the transaction was a valid rollover, but he would make some inquiries.

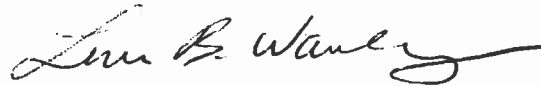
On Date 3, Individual M learned that the account had been set up incorrectly by Company F on Date 2 and attempted to resolve the error committed by Company F in setting up an incorrect account. Since Amount D was not placed in a qualified IRA account, Company F was unable to resolve the problem, and

A copy of this ruling is being sent to your authorized representative pursuant to a Power of Attorney on file with this office.

If you have any questions concerning this ruling, please contact
SE:T:EP: RA: T3, at

ID #

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling
Notice 437

cc: