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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

NOV 05 2012

Uniform Issue List: 408.03-00

T: EP: RA: T1

Legend

Taxpayer A	=
IRA B	=
IRA C	=
IRA D	=
Account E	=
Amount 1	=
Amount 2	=
Amount 3	=
Bank L	=
Bank M	=
Bank N	=
Bank O	=

Dear :

This is in response to your letter dated May 17, 2011, as supplemented by correspondence dated April 25, 2012, August 7, 2012, and August 21, 2012, in which you request, through your authorized representative, 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 represents that he withdrew Amount 2 from IRA B maintained with Bank L. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to confusion regarding Bank M's online application. Taxpayer A further represents that Amount 2 has not been used for any other purpose.

In early 2010, a Certificate of Deposit ("CD") held in Taxpayer A's IRA B, equal to Amount 1, was scheduled to mature. Taxpayer A represents that he wanted to diversify IRA B by dividing it into three separate IRAs with three different financial institutions. On February 11, 2010 Taxpayer A requested a trustee-to-trustee transfer of Amount 3 from IRA B to IRA C, an IRA account he established with Bank O for purposes of the transfer. On March 4, 2010 Taxpayer A requested a transfer of Amount 3 from IRA B to IRA D, an IRA account he established with Bank N for purposes of the transfer. On March 4, 2010 Taxpayer requested a transfer of Amount 2 from IRA B to Account E, an account he believed to be an IRA account, which he established with Bank M for purposes of the transfer.

In order to establish an IRA account online, Bank M requires that a "Personal Account Application," as opposed to a business account application, be completed. The Personal Account Application refers to various investments, including a Bank M CD and on the same line indicates that the minimum term for an IRA CD is 12 months. Taxpayer A believed that by selecting a 12-month CD, he was in fact establishing an IRA account. Taxpayer A requested that Bank L transfer Amount 2 to this account. A Bank L statement submitted by Taxpayer A indicates that Bank M wired Amount 2 directly to Bank M.

However, Taxpayer A discovered that Account E was not an IRA when, on March 9, 2010 the CD held in Account E matured and Bank M issued a check to Taxpayer A equal to Amount 2 plus earnings. Taxpayer A promptly requested a waiver from the Internal Revenue Service (the "Service"), and continues to hold the check issued to him by Bank M.

Based on the above facts and representations, you request a ruling that the Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 2 from IRA Account B. 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.

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) 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) 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).

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 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 confusion regarding Bank M's online application.

Therefore, pursuant to section 408(d)(3)(l) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 2 from IRA B. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 2 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 2 will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

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

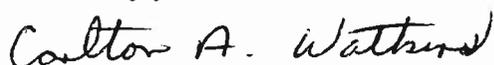
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact . Please also address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc: