



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201306031

NOV 16 2012

Uniform Issue List: 408.03-00

T:EP:RA:T2

Legend:

Taxpayer = *****

IRA X = *****

Amount A = *****

Dear *****:

This is in response to your request dated May 10, 2012, 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 the ruling requested.

Taxpayer represents that she received a distribution from IRA X totaling Amount A. Taxpayer asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to issues surrounding her kitchen remodeling, which impaired her ability to accomplish a timely rollover. Taxpayer further represents that Amount A has not been used for any other purpose.

Taxpayer was remodeling her home and withdrew funds from her IRA in anticipation of additional costs from the project. When she realized that she did not need the funds and formed the intent to return them into the IRA, the 60-day period had passed.

Based on the facts and representations, you request 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 A.

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)(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) 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.

The Service has the authority to waive the 60-day rollover requirement for a distribution from an IRA where the individual failed to complete a rollover to another IRA within the 60-day rollover period but was prevented from doing so because of one of the factors enumerated in Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003), which include: (1) errors committed by a financial institution; (2) death; (3) disability; (4) hospitalization; (5) incarceration; and/or (6) postal error. In this instance, Taxpayer has not presented any evidence to the Service as to how any of the above factors prevented her from timely rolling over Amount A into IRA X. In essence, taxpayer made a short

term loan when she withdrew Amount A from IRA X. In doing so, Taxpayer assumed the risk that she would not be able to timely replenish Amount A.

Accordingly, the Service hereby declines to waive the 60-day rollover requirement with respect to the distribution of Amount A from IRA X.

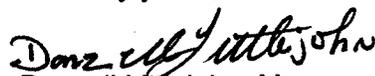
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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.

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

Sincerely yours,


Donzell Littlejohn, Manager
Employee Plans Technical Group

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose