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

DEC 27 2012

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List: 408.03-00

T.E.P.:R.A.T.L

Legend:

Taxpayer A	=	***
Taxpayer B	=	***
IRA X	=	***
IRA Y	=	***
IRA Z	=	***
Financial Institution A	=	***
Financial Institution B	=	***
Amount A	=	***
Amount B	=	***
Amount C	=	***

Dear ***:

This is in response to your request dated April 23, 2012, as supplemented by correspondence dated October 17, 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 A and Taxpayer B represent that Taxpayer A received distributions from IRA X totaling Amount A and from IRA Y totaling Amount B, and that Taxpayer B received a distribution from IRA Z totaling Amount C. Taxpayer A and Taxpayer B assert that their failure to accomplish rollovers within the 60-day period prescribed by section 408(d)(3) of the Code was due to Taxpayer A's mental condition which impaired her ability to make financial decisions during the 60-day period. Taxpayer A and Taxpayer B further represent that Amount A, Amount B, and Amount C have not been used for any other purpose.

Taxpayer A and Taxpayer B are married. Taxpayer A handled the couple's finances and Taxpayer B relied on Taxpayer A for financial guidance. Taxpayer A was the owner of IRA X at Financial Institution A and IRA Y at Financial Institution B. Taxpayer B was the owner of IRA Z at Financial Institution A.

Taxpayer A has been diagnosed with a mental condition rendering her judgment, insight, and memory poor. On June 16, 2011, Taxpayer A had Amount A distributed from IRA X, and, based on Taxpayer A's insistence, Taxpayer B had Amount C distributed from IRA Z. On July 29, 2011, Taxpayer A had Amount B distributed from IRA Y. Due to her mental condition, Taxpayer A did not believe the employees of Financial Institution A and Financial Institution B when they tried to inform her of the consequences of the distributions, and made the distributions without any understanding of her actions.

Because Taxpayer A's mental condition is not improving, Taxpayer A and Taxpayer B have represented that their son will be added to their accounts and will have the Power of Attorney for their affairs.

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 distributions of Amount A, Amount B, and Amount C.

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) (related to required minimum distributions under section 401(a)(9) and incidental death benefit requirements of section 401(a)).

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.

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) 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 and Taxpayer B is consistent with their assertion that their failure to accomplish timely rollovers was caused by Taxpayer A's mental condition which impaired her ability to make financial decisions during the 60-day period.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distributions of Amount A from IRA X, Amount B from IRA Y, and Amount C from IRA Z. Taxpayer A and Taxpayer B are granted a period of 60 days from the issuance of this ruling letter to contribute Amount A and Amount B into rollover IRAs for Taxpayer A, and Amount C into a rollover IRA for Taxpayer B. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contributions, Amount A, Amount B, and Amount C will be considered rollover contributions within the meaning of section 408(d)(3).

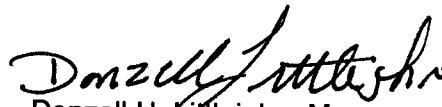
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code (related to required minimum distributions).

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 taxpayers who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to the 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 ***** at (***) ***-****. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Donzell H. Littlejohn, Manager,
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc: * * *