



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201319034

FEB 14 2013

Uniform Issue List: 408.03-00

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XXXXXXXXXXXXXXXXXX

T.I.E.P. R.A.T.J

Legend :

Taxpayer A	=	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX
IRA B	=	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX
Bank C	=	XXXXXXXXXXXXXXXXXX
Bank D	=	XXXXXXXXXXXXXXXXXX
Account E	=	XXXXXXXXXXXXXXXXXX
IRA F	=	XXXXXXXXXXXXXXXXXX
Financial Institution G	=	XXXXXXXXXXXXXXXXXX
IRA H	=	XXXXXXXXXXXXXXXXXX
Amount 1	=	XXXXXXXXXXXXXXXXXX
Amount 2	=	XXXXXXXXXXXXXXXXXX
Amount 3	=	XXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXX:

This is in response to your request dated January 19, 2012, as supplemented by correspondence dated June 20, 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 represents that he received a distribution equal to Amount 1 from IRA B, which was maintained by Bank C. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) was due to a mistake by Bank D in failing to deposit Amount 1 into a rollover IRA account.

Taxpayer A maintained IRA B, a certificate of deposit (CD), with Bank C. Upon maturity of the CD, on February 16, 20 , Taxpayer A initiated a transfer of Amount 1 from IRA B to an account at Bank D. Instead of depositing Amount 1 into a rollover IRA account as Taxpayer A intended, Bank D deposited Amount 1 in Account E, a non-IRA CD. Upon maturity of the non-IRA CD in 20 , and before the mistake was discovered, Taxpayer A transferred Amount 2 from Account E to IRA F with Financial Institution G. When the 20 mistake was discovered in May 20 , Bank D transferred Amount 3 to IRA H, an IRA CD set up by Taxpayer A at Bank D. Taxpayer A states that he believed that Account E was an IRA and that Bank D made a mistake in depositing Amount 1 into a non-IRA CD.

Based on the above facts and representations Taxpayer A requests that the Service waive the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA 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 or 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 of the Treasury 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) 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 and documentation submitted by Taxpayer A is consistent with the assertion that the failure to accomplish a timely rollover of Amount 1 was due to a mistake by Bank D. 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 1 from IRA B. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met, the contribution of Amount 2 to IRA F on February 20 and the contribution of Amount 4 (Amount 1 less Amount 2) to IRA H in May 20, will be considered rollover contributions within the meaning of section 408(d)(3) of the Code. The remainder of Amount 1 (equal to Amount 5) will not be considered a valid rollover contribution to IRA H.

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

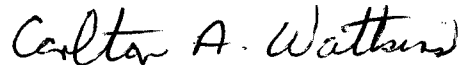
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No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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 XXXXXXXXXXXXXXXX (ID XXXXXXXXXXXX) at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Notice of Intention to Disclose

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