



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

MAY 21 2013

201333021

Uniform Issue List: 408.03-00

SE.T. EP. RA. T)

Taxpayer A =

IRA B =

Financial Institution C =

Financial Advisor D =

Company E =

Amount 1 =

Amount 2 =

Amount 3 =

Dear :

This letter is in response to a letter dated September 27, 2012, as supplemented by correspondence, dated January 18, 2013, and delivered via facsimile on February 7, 2013, and your correspondence dated April 4, 2013, 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 ("Code").

The following facts and representations have been submitted under penalties of perjury in support of your request.

Taxpayer A represents that she received a distribution from IRA B totaling Amount 3. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to her reliance on the inaccurate information provided by Financial Advisor D, a financial advisor with Financial Institution C concerning the rollover period.

Taxpayer A maintained IRA B with Financial Institution C. On March 19, 2011, Taxpayer A requested a total distribution of IRA B with instructions to wire the proceeds to a non-IRA investment with Company E. Amount 1 was transferred on that day and, after a settlement of investment trades, Amount 2 was transferred the next day. Taxpayer A states that she withdrew Amount 3 from IRA B based on Financial Advisor D's recommendation and that she was told she had more than 60 days to complete a rollover.

On June 11, 2011, Taxpayer A attempted to redeposit the funds into the original IRA but was told the 60-day rollover period had expired. Instead, Taxpayer A deposited the funds in a non-IRA account with Financial Institution C where they remain. A statement from Financial Advisor D is included that admits his error of advising Taxpayer A incorrectly about the period required for a valid rollover.

Based upon the foregoing facts and representations, you request that the Service waive the 60-day rollover requirement with respect to the distribution of Amount 3 from IRA B.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, 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) of the Code).

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.

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 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 is consistent with her assertion that her failure to accomplish a timely rollover of Amount 3 was caused by her reliance on the erroneous advice she received from Financial Advisor D concerning the 60-day rollover 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 distribution of Amount 1 and Amount 2 from IRA B. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute no more than Amount 3 into a rollover IRA. Provided all other requirements of Code section 408(d)(3), except the 60-day requirement, are met such contribution will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

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

A copy of this letter is being sent to your authorized representative in accordance with a Power of Attorney (Form 2848) on file with this office.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

If you have any questions, please contact (I.D. #) by
phone at or fax at . Please address all correspondence to
SE:T:EP:RA:T1.

Sincerely yours,

Carlton A. Watkins

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: