



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201338056

JUN 26 2013

Uniform Issue List: 408.03-00

TEP:RA:T1

Legend:

Taxpayer A =

IRA B =

Financial
Institution C =

Account D =

Financial
Institution E =

Amount 1 =

Dear :

This letter is in response to a request for a letter ruling dated April 6, 2012, as supplemented by correspondence dated June 13 and June 29, 2012, from 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 penalty of perjury in support of the ruling requested:

Taxpayer A represents that she received a distribution of Amount 1 from IRA B. 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 medical condition which impaired her ability to manage her financial affairs.

Taxpayer A further represents that Amount 1 has not been used for any other purpose and that she was unaware that Amount 1 was not in an IRA until she received a Form 1099-R in January, 20 , showing a full distribution of Amount 1.

Taxpayer A maintained IRA B, an individual retirement account (IRA) under section 408(a) of the Code, with Financial Institution C. The funds were invested in a certificate of deposit (CD). Upon maturity, Taxpayer A liquidated the CD and received a cashier's check from IRA B totaling Amount 1, dated August 3, 20 , and made payable to herself. On or around September 27, 20 , Taxpayer A met with an employee of Financial Institution E concerning the transfer and investment of the funds withdrawn from IRA B. Taxpayer A wanted the funds deposited in an IRA and invested in a money market fund, and assumed the employee of Financial Institution E understood her desire. However, when Financial Institution E received Taxpayer A's cashier's check totaling Amount 1, it was deposited in Account D, a non-IRA account money market account, on September 27, 20 .

Prior to the withdrawal of Amount 1 from IRA B, Taxpayer A was being treated for a medical condition. On August 27, 20 , Taxpayer A was taken off the particular therapy treatment which she had been on for 25 years. The ruling request is supported by a letter from her physician that explains Taxpayer A's medical condition. It states that being taken off her therapy treatment resulted in Taxpayer A experiencing extreme stress, an inability to concentrate and memory disorders. Taxpayer A represents that this negatively impacted her judgment and the management of her financial affairs. Thus, she was unable in September of 20 to complete the rollover into an IRA within the 60-day time period. Taxpayer A's medical condition did not improve until her therapy treatment was resumed in January of 20 .

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amount 1.

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 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) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code 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) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

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) 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 the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 was due to her medical condition which impaired her ability to manage her financial affairs during the 60-day rollover period.

Therefore, pursuant to section 408(d)(3) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from

IRA B. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute not more than Amount 1 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, the contribution 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 408(a)(6) 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.

A copy of this letter ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office. If you wish to inquire about this ruling, please contact (I.D. #), at () .

Sincerely yours,

Carlton A. Watkins

Manager
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of this Letter

Notice of Intention to Disclose, Notice 437

cc: