



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201351031

SEP 19 2013

408.03-00 Rollover Contributions

T:EP:RA:T1

Legend:

Taxpayer A =

Decedent B =

IRA C =

Account D =

Financial Institution E =

Account F =

Amount 1 =

Amount 2 =

Dear :

This letter is in response to a request for a letter ruling dated April 1, 2013, as supplemented by correspondence from August 1, 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 penalty of perjury in support of the ruling requested:

Taxpayer A represents that she received a distribution from IRA C, totaling Amount 1, on July 14, 2011. 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 mental condition following the sudden death of her spouse, Decedent B, which impaired her ability to make financial decisions. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Decedent B died unexpectedly in April 2011. Decedent B maintained two accounts with Financial Institution E, an Individual Retirement Annuity (IRA C) and a non-qualified annuity (Account D). On April 8, 2011, Financial Institution E contacted Taxpayer A, as beneficiary, to process a claim for IRA C and Account D. Although Decedent B maintained two accounts with Financial Institution E, it sent Taxpayer A only one claim form to fill out for both the IRA annuity and the non-IRA annuity. The claim form and the accompanying correspondence described both accounts as policies, did not distinguish between an IRA and a non-IRA annuity, and did not include any specific indication on how to accomplish a rollover of an IRA annuity. The claim form also included two opportunities for Taxpayer A to establish an account in her own name that would continue to be maintained by Financial Institution E on her behalf. Taxpayer A filled out the form and chose one of the options that allowed her to establish an account in her own name (Account F) with Financial Institution E. She returned the papers believing she had established a rollover IRA for Amount 1, but she had actually chosen an option to receive a lump sum payment of both accounts to be deposited into Account F, a non-IRA account with Financial Institution E. Taxpayer A received confirmation that Amount 1 from IRA C and Amount 2 from Account D were transferred to Account F on July 14, 2011. Taxpayer A represents that she did not learn of her failure to roll over the proceeds of IRA C until after the 60-day period had expired.

Based on the facts and representations, you request that the Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1 from IRA 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 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 received 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 and 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, 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, or 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 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 mental condition following the sudden death of her spouse, Decedent B, which impaired her ability to make financial decisions.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement for the distribution of Amount 1 from IRA C. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute a sum up to Amount 1 into an IRA established in your own name. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount 1 will be considered a 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.

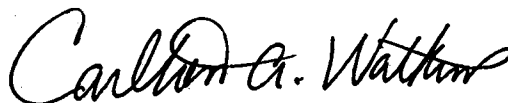
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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

If you wish to inquire about this ruling, please contact (ID Number) at (. Please address all correspondence to SE:T:EP:RA:T:1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose, Notice 437

cc: