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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

OCT 22 2013

Uniform Issue List: 408.03-00

S E: T: EP: RALT

Legend:

Taxpayer A =

IRA B =

Roth IRA C =

Financial Institution D =

IRA E =

Roth IRA F =

Financial Institution G =

Amount H =

Amount I =

Dear :

This is in response to your request for a ruling dated May 22, 2013, as supplemented by correspondence dated August 15, 2013, 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 she attempted to transfer Amount H in IRA B and Amount I in Roth IRA C to similar IRAs with a different financial institution. Taxpayer A asserts that her failure to accomplish a transfer of Amounts H and I into traditional and Roth IRAs, respectively, within the 60-day period prescribed by section 408(d)(3) was due to a mistake made by an employee of Financial Institution D. Taxpayer A further represents that Amounts H and I have not been used for any purpose.

Taxpayer A maintained IRA B, under section 408(a) of the Code, with Financial Institution D. In addition, Taxpayer A maintained Roth IRA C, under section 408A of the Code, with the same Financial Institution. On January 7, 2010, Taxpayer A visited Financial Institution D to request a transfer of Amount H in IRA B and Amount I in Roth IRA C to similar accounts with Financial Institution G. Taxpayer A signed forms directing the transfer of Amount H to IRA E and Amount I to Roth IRA F. For unexplained reasons, the employee of Financial Institution D who assisted Taxpayer A with the completion of the transfer forms, marked the wrong boxes. The form used to transfer Amount H to IRA E was marked "Roth IRA" and the form used to transfer Amount I to Roth IRA F was marked "Traditional IRA." Thus, Amounts H and I were transferred to the wrong IRA accounts. The error was discovered in October of 2012, when Taxpayer A received a deficiency notice from the Internal Revenue Service for not taking Amount H into income when it was converted to a Roth IRA.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the transfer of Amounts H and I from IRA B and Roth 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 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 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 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 is consistent with her assertion that her failure to accomplish a transfer of Amounts H and I into traditional and Roth IRAs, respectively, was due to a mistake made by an employee of Financial Institution 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 H from IRA B and Amount I from Roth IRA C. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to transfer amounts not to exceed Amounts H and I into traditional and Roth IRAs, respectively. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contributions, the contributions will be considered rollover contributions 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.

If you wish to inquire about this ruling, please contact
(I.D. #), , at () .

Sincerely yours,



Manager
Employee Plans Technical Group 1

Enclosures:

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Notice of Intention to Disclose, Notice 437