



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201412019

DEC 23 2013

Uniform Issue List: 408.03-00

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

Legend:

Taxpayer	=	*****
IRA X	=	***** *****
Financial Institution B	=	*****
Financial Advisor C	=	*****
Financial Institution D	=	*****
Amount	=	*****

Dear \*\*\*\*\*:

This is in response to your request dated July 19, 2012, as supplemented by correspondence dated January 24, 2013, 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 (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer represents that he received a distribution from IRA X totaling Amount. Taxpayer asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to an employee of Financial

Institution B providing incorrect information to Taxpayer resulting in distribution of Amount. Taxpayer further represents that Amount (less taxes withheld) has not been used for any other purpose.

Taxpayer represents that he maintained IRA X with Financial Institution B. Taxpayer turned age 70 ½ in 2011 and began to receive required minimum distributions. Taxpayer represents that Financial Advisor C at Financial Institution B was his primary contact at Financial Institution B. Taxpayer represents that on December 5, 2011, he took an additional distribution to meet the required minimum distribution requirement for 2011 based on the advice of Financial Advisor C, but had no intention of making any other withdrawals from IRA X in 2011.

Taxpayer represents that after December 5, 2011, but before the end of 2011, he received a telephone call from a customer service clerk from Financial Institution B to request information needed to transfer amounts from a certificate of deposit that had reached maturity within IRA X. Taxpayer represents that he was unfamiliar with and had not previously spoken with this customer service clerk. Taxpayer represents that the customer service clerk requested an account number from Taxpayer so that the proceeds of the certificate of deposit could be transferred. Taxpayer represents that the customer service clerk indicated to him that there was no other place to hold the proceeds of the certificate of deposit. Taxpayer represents that he was not given any other options by the customer service clerk and that he provided the customer service clerk with information to transfer Amount to his checking account at Financial Institution D. On December 29, 2011, Financial Institution B transferred Amount from the matured certificate of deposit in IRA X to Taxpayer's checking account with Financial Institution D. Taxpayer represents that Financial Advisor C did not communicate with Taxpayer about this transaction either before the transfer or within the 60-day rollover period. Taxpayer discovered the ramifications of the distribution after the 60-day rollover period had expired. Taxpayer represents that he has not used any part of Amount except for the amount withheld for taxes.

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 distribution of Amount from IRA X.

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 60<sup>th</sup> 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 60<sup>th</sup> 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) of the Code do not apply to any amount required to be distributed under section 408(a)(6) of the Code.

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 documentation submitted by Taxpayer are consistent with his assertion that his failure to accomplish a timely rollover was caused by an employee of Financial Institution B providing incorrect information to Taxpayer resulting in distribution of Amount.

201412019

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 from IRA X. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount into an 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 of Amount 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 401(a)(9) of the Code.

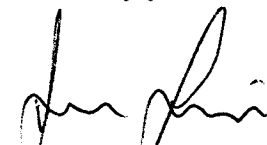
No opinion is expressed as to the tax treatment of the transaction described in this ruling under the provisions of any other section of either the Code or regulations which may be applicable.

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.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

If you wish to inquire about this ruling, please contact \*\*\*\*\* at (\*\*\*\*) \*\*\*-\*\*\*\*. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Jason E. Levine, Manager  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose

cc: \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*  
  
\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*