



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201416012

JAN 22 2014

**Uniform Issue List: 408.03-00**

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SE: T: EP: RA: T2

Legend:

- Taxpayer = \*\*\*
- IRA X = \*\*\*
- IRA Y = \*\*\*
- IRA Z = \*\*\*
- Financial Institution A = \*\*\*
- Financial Institution B = \*\*\*
- Date 1 = \*\*\*
- Date 2 = \*\*\*
- Date 3 = \*\*\*
- Date 4 = \*\*\*
- Date 5 = \*\*\*
- Amount 1 = \*\*\*
- Amount 2 = \*\*\*

**201416012**

Amount 3 = \* \* \*

Amount 4 = \* \* \*

Amount 5 = \* \* \*

Amount 6 = \* \* \*

Dear \* \* \*:

This is in response to your request dated February 27, 2013, as supplemented by correspondence received on May 17, 2013, and July 30, 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 (the "Code").

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

Taxpayer represents that he received distributions of Amount 1 from IRA X and Amount 2 from IRA Y, which totaled Amount 3. Taxpayer asserts that his failure to accomplish rollovers within the 60-day period prescribed by section 408(d)(3) of the Code was due to an unexpected post office delay in delivering the combined rollover contribution of Amount 3, which was mailed and expected to be delivered before the expiration of the 60-day period but was not delivered until after the 60-day period. Taxpayer further represents that Amount 3 has not been used for any other purpose.

Taxpayer maintained IRA X and IRA Y at Financial Institution A. Taxpayer wished to change his IRA custodian from Financial Institution A to Financial Institution B, at which he had already opened IRA Z. On Date 1, Taxpayer received a distribution of Amount 1 from IRA X, and Amount 2 from IRA Y, which totaled Amount 3.

On Date 2, Taxpayer received a distribution of Amount 4 from IRA X, and Amount 5 from IRA Y, which represented trailing dividends from each account. Including the trailing distributions, Taxpayer received a total of Amount 6 from IRA X and IRA Y.

On Date 3, four days before the expiration of the 60-day period from Date 1 and before the expiration of the 60-day period from Date 2, Taxpayer mailed via US Postal Service priority certified mail two checks totaling Amount 6 to Financial Institution B to be deposited into IRA Z. Prior to mailing the checks priority certified mail via the US Postal Service, Taxpayer represents that he spoke with a postal employee to ascertain whether the priority mail shipping would exceed the advertised delivery date of two to three days due to the holiday season. Taxpayer represents that he was told by a postal employee that, even though it was the holiday season, the letter would arrive by Date 4. Taxpayer was also provided a postal transaction receipt with the estimated delivery date noted as Date 4, one day before the expiration of the 60-day period from Date 1.

The letter enclosing the rollover deposit of Amount 6 did not actually arrive until Date 5, three days after the expiration of the 60-day period from Date 1 but before the expiration of the 60-day period from Date 2. Amount 6 was deposited into IRA Z and has not been used for any other purpose.

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

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) 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)).

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) (related to required distributions under section 401(a)(9) of the Code and incidental death benefit requirements of section 401(a) 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) 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.

Revenue Procedure 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 is consistent with his assertion that his failure to accomplish a timely rollover was due to the unexpected post office delay in delivering the rollover contribution of Amount 3, which was mailed and expected to be delivered before the expiration of the 60-day period but was not delivered until after the 60-day 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 3 from IRA X and IRA Y on Date 1. Provided all other requirements of section 408(d)(3), except the 60-day requirement, were met with respect to such contribution, the contribution of Amount 3 to IRA Z on Date 5 will be considered a valid rollover contribution within the meaning of section 408(d)(3).

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

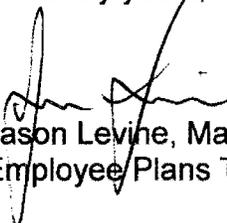
This letter assumes that the above IRA qualifies under either section 408 of the Code or section 408A of the Code at all relevant times.

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.

Pursuant to the power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative. If you wish to inquire about this ruling, please contact \*\*\*\*\* at (\*\*\*) \*\*\*-\*\*\*. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Jason Levine, Manager,  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter

Notice of Intention to Disclose

cc: \*\*\*