



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

201421030

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

FEB 24 2014

Uniform Issue List: 408.03-00

T:EP:RA:T

LEGEND:

Taxpayer A =

IRA B =

Custodian C =

Account D =

Bank E =

Amount 1 =

Dear :

This is in response to your request dated October 12, 2012, as supplemented by correspondence dated September 17, 2013, and January 8, 2014, 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 he received a distribution of Amount 1 from his Individual Retirement Account (IRA), IRA B. Taxpayer A asserts that his failure to accomplish a rollover of Amount 1 within the 60-day period prescribed by section 408(d)(3) of the Code was due to worsening of a medical condition that impaired his ability to manage his financial affairs. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A maintained IRA B with Custodian C. Taxpayer A represents that he received a total distribution of IRA B equal to Amount 1, on January 25, 2011. Taxpayer A represents that on the same day he deposited Amount 1 into Account D, a non-IRA account with Bank E.

Taxpayer A represents that he suffers from a medical condition that affects his memory, judgment and reasoning abilities. As a result of the worsening of his medical condition, he did not remember making the withdrawal and deposit, and he also failed to inform any family members of his actions. Taxpayer A has provided documentation from his doctor indicating that he had been under the doctor's care prior to and during the 60-day period after he received the distribution from IRA B. Taxpayer A's doctor indicates that Taxpayer A has exhibited significant decline in his cognitive and functional abilities, including his ability to competently manage his finances.

Taxpayer A represents that he did not recall making the transactions until after the expiration of the 60-day period, when he and his spouse (who Taxpayer A represents is visually impaired) provided their tax records to their daughter, who then brought them to a CPA for preparation of their annual tax return.

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

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).

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 provides that in determining whether to grant a waiver of the 60-day rollover requirement under 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 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 his assertion that his failure to accomplish a rollover of Amount 1 within the 60-day period was due to the worsening of his medical condition that impaired his ability to manage his financial affairs.

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 1 from IRA B. Taxpayer A is granted a period of 60 days from the date of issuance of this ruling letter to contribute a sum up to Amount 1 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 the contribution, Amount 1 will be

considered a valid 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.

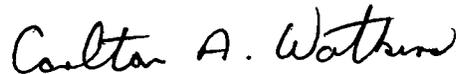
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to the taxpayer's authorized representative.

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 have any questions, please contact \_\_\_\_\_ (I.D. # \_\_\_\_\_) by  
phone at \_\_\_\_\_ or fax at \_\_\_\_\_ . Please address all  
correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of Ruling Letter  
Notice of Intention to Disclose

cc: