



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

201422032

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

MAR 05 2014

Uniform Issue List: 408.03-00

SET: EP: RA: T2

Legend:

Taxpayer = ***
IRA X = ***
Amount = ***
Financial Institution A = ***
Financial Institution B = ***

Dear ***,

This is in response to your request dated October 23, 2012, 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) was due to Taxpayer's belief that the transaction he engaged in was a stock purchase through his IRA. Taxpayer further represents that Amount has not been used for any other purpose.

Taxpayer requested that Financial Institution A wire Amount from IRA X directly to Financial Institution B on April 7, 2010, in order to invest in stock of Financial Institution B. The request and wire instructions were received on the same day with confirmation of receipt by Financial Institution B. Taxpayer's written request and wire instructions to Financial Institution B contained his intent to purchase stock in Financial Institution B as an investment through IRA X. Taxpayer further received written approval from an employee at Financial Institution B that the stock would be titled in the name of "Financial Institution A Rollover IRA f/b/o Taxpayer".

Amount was held in the escrow account of Financial Institution B from the stock transaction request date of April 7, 2010, until the stock was purchased. On April 27, 2010, Taxpayer received correspondence from Financial Institution B that the stocks and warrants that he purchased would not result in an immediate order of the corresponding stock certificates. Financial Institution B noted that they expected the stock certificates to be ordered no later than May 31, 2010. Financial Institution B continued to experience unanticipated delays and was unable to issue the public shares until October 13, 2010. Taxpayer received his stock certificate on October 14, 2010, with a description of his intent to include stock certificate in IRA X. Taxpayer believed that he had accomplished an investment through IRA X until he received a notice dated September 24, 2010, from the Internal Revenue Service.

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 distribution of Amount.

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)(l) 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)(l) 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)(l), 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 effect a rollover of Amount was due to his belief, reinforced by the actions of employees of Financial Institution B, that the transaction he engaged in was a stock purchase through his IRA.

Therefore, pursuant to section 408(d)(3)(l) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount from IRA. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount into a rollover 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 letter assumes that the above IRA qualifies under either section 408 of the Code at all relevant times.

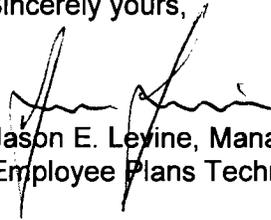
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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.

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 *** 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