



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201423044

MAR 13 2014

T:EP:RA:73

Uniform Issue List: 9100.00-00; 408A.00-00

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Legend:

Taxpayer A = \*\*\*\*\*

Custodian B = \*\*\*\*\*

Amount 1 = \*\*\*\*\*

IRA X = \*\*\*\*\*  
\*\*\*\*\*

Roth IRA Y = \*\*\*\*\*  
\*\*\*\*\*

Dear \*\*\*\*\*.

This is in response to your request dated October 10, 2012, submitted on your behalf, by your authorized representative, as supplemented by correspondence dated February 13, 2013 and November 17, 2013, in which you request relief under section 301.9100-3 of the Procedure and Administrative Regulations (the "P&A Regulations").

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

Taxpayer A owned IRA X, a traditional IRA described in section 408 of the Internal Revenue Code (the "Code"), and maintained by Custodian B. In 2010, Taxpayer A transferred shares of stock valued at Amount 1 (the "2010 Contribution") from IRA X to

IRA Y, a Roth IRA described in section 408A of the Code, as a Roth IRA conversion in 2010. Roth IRA Y is also maintained by Custodian B.

Taxpayer A requests an extension of time to recharacterize the 2010 Contribution to Roth IRA Y. Taxpayer A represents that as a result of medical conditions that affected his memory and ability to comprehend financial matters, he was unable to understand the implications of converting IRA X to a Roth IRA or to understand the advisability of making a timely election to recharacterize such conversion.

As a result of certain specified medical conditions, Taxpayer A suffers from significant lapses in memory and comprehension that have made him unable to manage his financial affairs. Taxpayer A also has limited hearing and limited vision, which make reading difficult and prevents reading small print or long documents.

Taxpayer A converted a portion of IRA X to a Roth IRA in 2009. Taxpayer A did not understand that such conversion caused the converted amount to be taxable income, and did not report it on his tax return. Taxpayer A received correspondence from the IRS regarding the failure to report the conversion as income for 2009, a situation which has since been resolved.

In 2010, Taxpayer A converted the remainder of IRA X, Amount 1, again believing that such conversion was tax-free. As a result of the memory lapses and comprehension difficulties stemming from his medical conditions, Taxpayer A had no recollection of the communications he had received from the IRS regarding the 2009 conversion. Because he did not remember the communications he had received from the IRS regarding the 2009 conversion and mistakenly believed the conversion to be non-taxable, Taxpayer A did not report the conversion on his 2010 tax return.

Taxpayer A filed his income tax return for 2010 on April 15, 2011. In 2012, Taxpayer A's authorized representative discovered the 2010 Roth conversion, as well as the letter from the IRS regarding the 2009 conversion. The failure to report the 2010 Roth conversion (or to elect to recharacterize the contribution to IRA Y) was not discovered by the Internal Revenue Service (the "Service"), but was reported by Taxpayer A's authorized representative, who timely filed this request in October 2012.

Based on the foregoing facts and representation, you request a ruling that, pursuant to section 301.9100-3 of the P&A Regulations, Taxpayer A be granted a period not to exceed 60 days from the date of this ruling to recharacterize the 2010 Contribution to Roth IRA Y as a contribution to a traditional IRA.

With respect to your request, section 408A(d)(6) of the Code and section 1.408A-5 of the Federal Income Tax Regulations ("I.T. Regulations") provide that, except as otherwise provided by the Secretary, a taxpayer may elect to recharacterize an IRA contribution made to one type of IRA as having been made to another type of IRA by making a trustee-to-trustee transfer of the IRA contribution, plus earnings, to the other

type of IRA. In a recharacterization, the IRA contribution is treated as having been made to the transferee IRA and not the transferor IRA. This recharacterization election generally must occur on or before the date prescribed by law, including extensions, for filing the taxpayer's Federal income tax return for the year of contribution.

Section 1.408A-5, Q&A-6, of the I.T. Regulations describes how a taxpayer makes the election to recharacterize an IRA contribution. To recharacterize an amount that has been converted from a traditional IRA to a Roth IRA: (1) the taxpayer must notify the Roth IRA trustee of the taxpayer's intent to recharacterize the amount, (2) the taxpayer must provide the trustee (and the transferee trustee, if different from the transferor trustee) with specified information that is sufficient to effect the recharacterization, and (3) the trustee must make the transfer.

Section 408A(d)(3)(C) provides that a conversion of a traditional IRA to a Roth IRA is treated as a rollover from a traditional IRA to a Roth IRA.

Sections 301.9100-1, 301.9100-2, and 301.9100-3 of the P&A Regulations, in general, provide guidance concerning requests for relief submitted to the Service on or after December 31, 1997. Section 301.9100-1(c) provides that the Commissioner of Internal Revenue, in his discretion, may grant a reasonable extension of the time fixed by a regulation, a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin for the making of an election or application for relief in respect of tax under, among others, Subtitle A of the Code.

Section 301.9100-2 of the P&A Regulations lists certain elections for which automatic extensions of time to file are granted. Section 301.9100-3 generally provides guidance with respect to the granting of relief with respect to those elections not referenced in section 301.9100-2. The relief requested in this case is not referenced in section 301.9100-2.

Section 301.9100-3 of the P&A Regulations provides that applications for relief that fall within section 301.9100-3 will be granted when the taxpayer provides sufficient evidence (including affidavits described in section 301.9100-3(e)(2)) to establish that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief would not prejudice the interests of the Government.

Section 301.9100-3(b)(1) of the P&A Regulations provides that a taxpayer will be deemed to have acted reasonably and in good faith (i) if its request for section 301.9100-1 relief is filed before the failure to make a timely election is discovered by the Service; (ii) if the taxpayer inadvertently failed to make the election because of intervening events beyond the taxpayer's control; (iii) if the taxpayer failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election; (iv) the taxpayer reasonably relied upon the written advice of the Service; or (v) the taxpayer reasonably relied on a qualified tax

professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c)(1)(i) of the P&A Regulations provides that the interests of the Government are ordinarily prejudiced if granting relief would result in the taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made (taking into account the time value of money).

Section 301.9100-3(c)(1)(ii) of the P&A Regulations further provides that the interests of the Government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made or any taxable years that would have been affected by the election had it been timely made are closed by the statute of limitations before the taxpayer's receipt of a ruling granting relief under this section.

In the present case, due to medical conditions that affected Taxpayer A's memory and comprehension, he was unaware of the availability or advisability of making an election to recharacterize the 2010 Contribution to Roth IRA Y. Due to his memory and comprehension problems, Taxpayer A was under the mistaken belief that a conversion to a Roth IRA was not taxable. Therefore, he was unaware of the need to make the election. When Taxpayer A's authorized representative discovered the situation, Taxpayer A filed this request for section 301.9100 relief in a timely manner, and before the Service discovered the failure to make the election.

Under the circumstances described above, Taxpayer A satisfies the requirements of section 301.9100-3(b)(1) of the P&A Regulations. Accordingly, we rule that, pursuant to clauses (i) and (ii) of section 301.9100-3 of the P&A Regulations, Taxpayer A is granted a period not to exceed 60 days from the date of this letter ruling to recharacterize the 2010 Contribution to Roth IRA Y as a contribution to a traditional IRA.

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 assumes that the above IRAs qualify under either section 408 of the Code or section 408A of the Code at all relevant times.

This ruling 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 by others as precedent.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file with this office.

201423044

If you wish to inquire about this ruling, please contact \*\*\*\*\* (ID # \*\*\*\*\* at  
(\*\*) \*\*\*\*\* Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,



Laura B. Warshawsky, Manager,  
Employee Plans Technical Group 3

Enclosures:  
Deleted copy of this letter  
Notice of Intention to Disclose

Cc: \*\*\*\*\*  
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