



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201444044

AUG 06 2014

Uniform Issue List: 408.03-00

Legend:

Taxpayer A =

IRA X =

IRA Y =

Financial Institution B =

Amount 1 =

Amount 2 =

Amount 3 =

Financial Institution C =

Account Z =

Dear :

This is in response to your request postmarked October 15, 2013, as supplemented by correspondence postmarked December 27, 2013, and items faxed on April 1, April 16, and May 27 (two items), 2014, from you and 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 A represents that she received a distribution from IRA X totaling Amount 1. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to a mistake made by Financial Institution C which led to Amount 1 being erroneously deposited in a non-IRA account. Taxpayer A seeks a waiver of the 60-day period with respect to Amount 1.

Taxpayer A, a retiree who was widowed in 2005, maintained IRA X at Financial Institution B. Taxpayer A also maintained IRA Y at Financial Institution C. In addition, Taxpayer A was trustee of Account Z, a trust account also held with Financial Institution C.

On June 19, 2012, to obtain a better investment return, Taxpayer A decided to roll over Amount 1 from IRA X at Financial Institution B to IRA Y at Financial Institution C. Taxpayer A represents that Financial Institution C erroneously transferred Amount 1 from IRA X to Account Z, a non-IRA trust account, instead of IRA Y.

Taxpayer A did not discover the error until 2013, when her 2012 taxes were being prepared. She asked Financial Institution C to correct the mistake. However, as of November 18, 2013, Account Z held less than Amount 1, and only the amount then available in Account Z, Amount 2, was transferred from Account Z to IRA Y by Financial Institution C. Taxpayer A represents that she has not used Amount 2 for any other purpose. Taxpayer A's submitted documentation was insufficient to show the location and use of Amount 3 on and after the distribution from IRA X.

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 1 from IRA X.

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 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) 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) 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) 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.

Taxpayer A asserts that Financial Institution C erred in transferring Amount 1 from IRA X to Account Z instead of IRA Y. However, although Amount 1 was initially deposited into Account Z, only Amount 2 remained and was transferred to IRA Y in the November 18, 2013, transfer. Taxpayer A represents

that she had withdrawn money from Account Z prior to the transfer. Amount 3, the difference between Amount 1 and Amount 2, was not transferred to IRA Y.

With respect to Amount 2, the information presented and documentation submitted by Taxpayer A are consistent with her assertion that her failure to accomplish a timely rollover was due to Financial Institution C's error in transferring Amount 2 from IRA X to Account Z instead of IRA Y. 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 2 from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to the contribution of Amount 2 to IRA Y on November 18, 2013, such contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

However, with respect to Amount 3, the information presented and documentation submitted by Taxpayer A are insufficient to show Financial Institution C's error was the cause of her failure to accomplish a timely rollover. The documentation submitted was insufficient to show that Amount 3, upon being withdrawn from Account Z, was not used for personal use. Therefore, the Service declines to waive the 60-day rollover requirement with respect to the distribution of Amount 3 from IRA X.

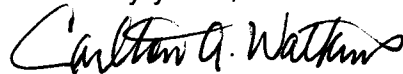
This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

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.

If you wish to inquire about this ruling, please contact
(ID) 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