



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

**201444045**

**AUG 04 2014**

Uniform Issue List: 408.03-00

Legend:

Taxpayer A =

IRA X =

Amount 1 =

Financial Institution B =

Financial Institution C =

Account Y =

Individual D =

Dear :

This is in response to your request signed on April 29, 2014, as supplemented by correspondence dated June 25 and July 3, 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 (the "Code").

The following facts and representations have been submitted under penalties 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 of Amount 1 within the 60-day period prescribed by section 408(d)(3) of the Code, was due to error by Financial Institution C in depositing Amount 1 into a non-IRA account instead of an IRA. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A maintained IRA X at Financial Institution B. IRA X was invested in a Certificate of Deposit ("CD").

Taxpayer A also maintained non-IRA CDs at Financial Institution C. Taxpayer A wanted to have all of her CDs with one financial institution. Upon maturity of the IRA X CD on June 15, 2012, Taxpayer A took a complete distribution in the form of a cashier's check from Financial Institution B and closed the IRA X account. The cashier's check did not indicate that it was a distribution from an IRA. Taxpayer A represents that, on June 21, 2012, she gave the check to a Financial Institution C representative, told the representative that the funds were from an individual IRA, and then discussed investment of the funds. Taxpayer A does not recall signing paperwork creating Account Y. Taxpayer A assumed that the money would be invested in a similar retirement account, but Financial Institution C set up a non-IRA account, Account Y, and invested the funds in a 36-month CD, issued June 21, 2012, held in the name of Taxpayer A.

Taxpayer A received regular statements from Financial Institution C listing Account Y and several other CDs. Account Y was not identified in the statements as an IRA. Additionally, the statement included year-to-date tax summary information that separately listed "IRA YTD Dividends" and "Other YTD Dividends." Although Account Y had dividends, Taxpayer A's statement showed zero dividends under "IRA YTD Dividends."

After establishing Account Y, Taxpayer A asked Financial Institution C to change Account Y to a joint account with her daughter, Individual D, similar to other CDs Taxpayer A held jointly with Individual D at Financial Institution C. The April 1, 2014, statement lists Individual D as joint owner of Account Y.

Taxpayer A represents that she took required minimum distributions from IRA X while it was at Financial Institution B. Taxpayer A took no distributions from Account Y.

Taxpayer A represents that she was not aware that Account Y was not an IRA until she received a tax notice dated February 24, 2014. Taxpayer A represents that if

she had known about the tax consequences, she would not have transferred the funds from IRA X to Account Y.

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 1 from IRA X.

Section 408(a) of the Code provides that an "individual retirement account" is for the exclusive benefit of an individual or his beneficiaries.

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)(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) 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), 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 has not presented sufficient evidence showing that Financial Institution C erred in setting up non-IRA Account Y. Upon approaching Financial Institution C with the cashier's check from IRA X, Taxpayer A had the option of requesting a rollover IRA or a non-IRA account. Taxpayer A has not provided evidence that she instructed Financial Institution C to set up an IRA account for the deposit of Amount 1 from IRA X. Additionally, Taxpayer A's transactions after the transfer were consistent with maintaining a non-IRA account. After establishing Account Y, Taxpayer A received statements that not only did not list Account Y as an IRA, but also reported zero IRA YTD Dividends which was inconsistent with Account Y's actual earnings. Even though Taxpayer A had been receiving required minimum distributions from IRA X, Taxpayer A did not take any required minimum distributions from Account Y. Further, Taxpayer A instructed Financial Institution C to convert Account Y to joint ownership. A request for joint ownership is inconsistent with maintaining an IRA since, under section 408(a) of the Code, an IRA can be established and owned by only one individual and maintained for the exclusive benefit of that individual or his or her beneficiaries. Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service declines to waive the 60-day rollover requirement with respect to the June 15, 2012, distribution of Amount 1 from IRA X.

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.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

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*

Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

- Deleted copy of ruling letter
- Notice of Intention to Disclose

cc: