



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

201448034

SEP 02 2014

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List: 408A.00-00

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XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

SET:EP:RA:T1

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXX

IRA B = XXXXXXXXXXXXXXXXXXXX

Roth IRA C = XXXXXXXXXXXXXXXXXXXX

Financial Institution D = XXXXXXXXXXXXXXXXXXXX.

Financial Institution E = XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

CPA Firm F = XXXXXXXXXXXXXXXXXXXX

Financial Advisor G = XXXXXXXXXXXXXXXXXXXX

Accountant H = XXXXXXXXXXXXXXXXXXXX

Amount 1 = XXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXX:

This is in response to your request dated July 15, 2013, as supplemented by correspondence received on December 20, 2013, January 21, 2014, February 23, 2014, and June 21, 2014, in which your authorized representative requests relief under section 301.9100-3 of the Procedure and Administration Regulations ("Regulations") on your behalf.

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

Taxpayer A maintained IRA B with Financial Institution D. In December 2010, Taxpayer A transferred and converted a portion of IRA B totaling Amount 1 into Roth IRA C maintained by Financial Institution D.

Taxpayer A represents that in 2009, when she was single, Financial Advisor G with Financial Institution E recommended that she consider making a Roth conversion. Taxpayer A also received a financial projection from Accountant H with CPA Firm F as to how a conversion would affect her 2010 tax return. In 2010, acting on Financial Advisor G's recommendation, Taxpayer A converted Amount 1 from IRA B to Roth IRA C.

Taxpayer A was married in 2010 and filed her 2010 tax return on time without extension using the married filing jointly status. Under the two-year deferral of recognition of income for Roth IRA conversions made in 2010, Taxpayer A did not report any income from her Roth IRA conversion on her 2010 tax return. Taxpayer A was unaware at the time of 2010 tax return filing that the tax liability on the Roth conversion would be substantially greater than the original estimate given to her by Accountant H due to her change in marital status and the taxable income of her husband. Taxpayer A's deadline for making such recharacterization was October 17, 2011, which was the last date, including extensions, for filing an income return for 2010, the year of the conversion. At no time was Taxpayer A advised of the effect that a change in marital status would have on her Roth IRA conversion until after the allowed timeframe to unwind the conversion.

It was only after Taxpayer A filed her 2011 return that she realized the extent of the additional tax and that she had missed the opportunity to recharacterize the Roth conversion. Taxpayer A has not received any notice or other communication from the Internal Revenue Service regarding her failure to effect a timely recharacterization.

Based on your submission and the above facts and representations, you request a ruling that pursuant to section 301.9100-3 of the Regulations, Taxpayer A be granted an extension of time to recharacterize Roth IRA C as a traditional IRA.

With respect to Taxpayer A's request for relief under section 301.9100-3 of the Regulations, 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 a Roth 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. Under section 408A(d)(6) of the Code and section 1.408A-5 of the I.T. Regulations, 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 the IRA contributions.

Section 1.408A-5, Question & Answer ("Q&A")-6 of the I.T. Regulations describes how a taxpayer makes the election to recharacterize the IRA contribution. To recharacterize an amount that either has been contributed to a Roth IRA or 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.

Sections 301.9100-1, 301.9100-2, and 301.9100-3 of the Regulations provide guidance concerning requests for relief submitted to the Service on or after December 31, 1997.

Section 301.9100-1(c) of the Regulations 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 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 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 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, 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)(ii) of the Regulations provides that ordinarily the interests of the Government will be treated as prejudiced and that ordinarily the Service will not grant relief when tax 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 this case, Taxpayer A failed to recharacterize her Roth IRA C back to a traditional IRA by the time permitted by law. Therefore, it is necessary to determine whether Taxpayer A is eligible for relief under the provisions of section 301.9100-3 of the Regulations. In filing her 2011 Return, Taxpayer A failed to make the special election to recharacterize the Roth conversion. Taxpayer A represents that despite her efforts to comply with applicable rules, she was not timely advised by her tax advisor of the tax implications her change in marital status would have on her Roth conversion. Taxpayer A did not discover her mistake until after the due date for recharacterizing the 2010 Roth conversion had passed.

Thus, Taxpayer A satisfies clause (v) of section 301.9100-3(b)(1) of the Regulations because she reasonably relied on the advice of Financial Advisor G concerning the Roth IRA conversion rules. In addition, because the statute of limitations on the Taxpayer A's 2011 return remains open, the interests of the government would not be prejudiced by providing relief.

Accordingly, we rule that, pursuant to section 301.9100-3 of the Regulations, Taxpayer A is granted a period not to exceed 60 days from the date of this letter to recharacterize Roth IRA C as a traditional IRA.

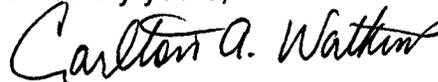
This letter assumes that the above IRAs qualify under section 408 of the Code or section 408A of the Code at all relevant times.

This letter is directed only to the taxpayer who requested it. Code section 6110(k)(3) 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 ruling is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact XXXXXXXXXX (Identification No. XXXXXXX) at (XXX) XXX-XXXX. 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