



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201449010

SEP 10 2014

Uniform Issue List: 408.03-00

T:EP:RA:73

Legend:

Taxpayer A =

IRA X =

Bank B =

Company C =

Individual D =

Amount E =

Dear :

This is in response to your request dated March 14, 2014 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").

Taxpayer A claims that her failure to accomplish a timely rollover was due to both a lack of information following the abrupt resignation of her agent, Individual D, and health issues of both herself and her husband.

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

Taxpayer A maintained IRA X at Company C. Taxpayer A had executed a Durable Power of Attorney giving Individual D authority to take various actions on her behalf. Taxpayer A represents that she requested that Individual D consolidate her various investment accounts into Bank B. In July 2013, Individual D withdrew Amount E

from IRA X and deposited it, along with other funds, into Taxpayers A's non-IRA account at Bank B. Within a month of this withdrawal, Individual D abruptly resigned and failed to explain to Taxpayer A that Amount E was a distribution from IRA X and should be rolled over within the next few weeks to avoid taxation of such amounts.

During the same period of time that this was happening, both Taxpayer A and her husband were hospitalized. Taxpayer A then had to go to a rehabilitation facility, where she remained for several weeks. Taxpayer A's husband was then admitted to a nursing home facility.

Taxpayer A relied on Individual D to handle the financial aspects of the consolidation of her accounts, and to advise her with respect to them. Individual D did not rollover Amount E, and resigned without advising Taxpayer A of the need to rollover the amount withdrawn from IRA X within the remainder of the 60-day period. Taxpayer A represents that Amount E has not been used for any other purpose.

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 E.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, 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) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code 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) of the Code 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) of the Code 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) 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) 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.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover was due to both a lack of information following the abrupt resignation of her agent, Individual D, and health issues of both herself and her husband.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount E from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to transfer Amount E to an 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 E will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

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 herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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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:T3 .

Sincerely yours,



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

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose