



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201449012

SEP 11 2014

T. EP. RAITZ

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

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Legend:

Taxpayer = \*\*\*\*\*  
Custodian = \*\*\*\*\*  
Amount = \*\*\*\*\*  
Account = \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*  
IRA Y = \*\*\*\*\*  
\*\*\*\*\*

Dear \*\*\*\*\*:

This is in response to your request dated August 20, 2012, submitted on your behalf by your authorized representative, as supplemented by correspondence dated December 10, 2012, and June 30, 2014, 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 penalty of perjury in support of the ruling requested.

On December 29, 2010, Taxpayer requested that Amount be transferred from Account, a qualified retirement plan, to IRA Y, a Roth IRA described in section 408A of the Internal Revenue Code ("Code"), as a Roth IRA conversion. On October 13, 2011,

Taxpayer requested through Custodian's IRA Request for Recharacterization form (the "Request") to recharacterize IRA Y to Account. Taxpayer called Custodian on October 14, 2011, to determine if his Request was received and in good order for processing. Taxpayer was advised by Custodian that his Request was in good order for processing and no further action was required. On October 19, 2011, Custodian performed a subsequent review of the Request and determined that the Request was not in good order because the Request directed the Roth IRA to be recharacterized to Account, a qualified retirement plan. Custodian informed Taxpayer that that it would be unable to process the recharacterization of the 2010 Roth IRA because Taxpayer was not permitted to recharacterize his Roth IRA to a qualified retirement plan, but to a Traditional IRA.

Accordingly, even though Taxpayer requested to recharacterize IRA Y prior to the deadline of October 17, 2011 ("Deadline"), Taxpayer was not notified of this inability to recharacterize IRA Y into a qualified plan until after the Deadline to re-characterize into a Traditional IRA had passed. As such, Taxpayer was not advised of the need to recharacterize IRA Y into another IRA until the time to do so had passed.

The statute of limitations on Taxpayer's 2010 Federal Income Tax Return remains open.

Based on the foregoing facts and representations, you have requested a ruling that, pursuant to section 301.9100-3 of the P&A Regulations, Taxpayer may be granted an extension of time from the date of issuance of this ruling to make an election under section 1.408A-5 of the Income Tax Regulations (the "I.T. Regulations") to recharacterize Amount as a contribution to a Traditional IRA.

With respect to your request for relief under section 301.9100-3 of the P&A Regulations, section 408A(d)(6) of the Code and section 1.408A-5 of the 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. 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 contribution.

Section 1.408A-5, 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 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 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, 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 P&A 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 the present case, Taxpayer's failure to elect to recharacterize the Roth IRA on or before the date prescribed by law, including extensions, for filing his Federal Income Tax Return for the year of contribution, was caused by intervening events beyond Taxpayer's control. Taxpayer's failure resulted from the processing of the Request by Custodian where Taxpayer was diligent by contacting Custodian and received

assurance prior to the Deadline that the Request was in good order with no further action required and was notified by Custodian only after the Deadline had expired that the Request could not be processed.

Based on the above, Taxpayer meets the requirements of section 301.9100-3(b)(1) of the P&A Regulations, clauses (i) and (ii), for the 2010 tax year. In addition, since the statute of limitations is still open, under section 301.9100-3(c)(1)(ii) of the P&A Regulations, granting relief will not prejudice the interests of the Government.

Accordingly, Taxpayer is granted an extension of 60 days as measured from the date of the issuance of this ruling letter to recharacterize Amount 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.

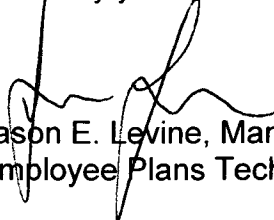
This letter assumes that the above IRA qualifies under either section 408 of the Code or section 408A of the Code at all relevant times.

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.

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 \*\*\*\*\* at (\*\*\*\*) \*\*\*\*-  
\*\*\*\*\*. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Jason E. Levine, Manager  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of this letter  
Notice of Intention to Disclose