



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201452026

SEP 30 2014

SEIT: EP: RA: T2

**Uniform Issue List: 408.03-00**

**Legend:**

Taxpayer =

IRA X =

IRA Y =

Amount A =

Amount B =

Amount C =

Financial Institution A =

Financial Institution B =

Financial Institution C =

Dear ,

This is in response to your request dated May 28, 2013, supplemented by correspondence dated November 11, 2013, and September 25, 2014, in which your authorized representative, on your behalf, requested 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 represents that she received a distribution of Amount A from IRA X. She further represents that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to the medical condition of her husband, for whom she was the primary caregiver, and who had always managed their financial affairs. Taxpayer further represents that the amount distributed has not been used for any purpose.

At the time of the distribution, on November 19, 2012, and during the rollover period, Taxpayer was preoccupied with the care of her husband. Her husband required frequent doctor visits and constant attention at home. Taxpayer has provided documentation from her husband's attending physician attesting to his medical condition. Additionally, Taxpayer had never been involved with the couple's financial affairs.

Taxpayer's intent was to move the IRA to a bank that was closer to her home. On November 26, 2012, Taxpayer deposited Amount A to her savings account with Financial Institution B. Taxpayer represents that she believed the account was an IRA. On April 2, 2013, Taxpayer met with her financial adviser and on his advice, withdrew Amount B from her account at Financial Institution B. She deposited this amount into her savings account with Financial Institution C.

On April 5, 2013, Taxpayer learned that the distribution from IRA X had not been properly rolled over. On April 11, 2013, Taxpayer transferred Amount C to IRA Y. On April 15, 2013, Taxpayer transferred Amount B from her savings account at Financial Institution C to IRA Y.

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 A.

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 60<sup>th</sup> 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 60<sup>th</sup> 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) or 408(b)(3).

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.

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.

The information presented and documentation submitted by Taxpayer, including documentation from her husband's attending physician, are consistent with her assertion that her failure to accomplish a timely rollover was caused by a medical condition of her husband and her duties as his primary caregiver.

Taxpayer has provided documentation from her husband's attending physician attesting to his medical condition.

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 A from IRA X. Provided all the other requirements of Code section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the transfer of Amount A to IRA Y 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 401(a)(9) of the Code.

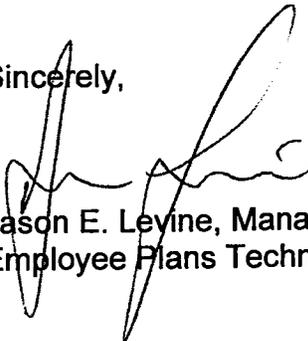
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable.

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.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file with this office.

If you wish to inquire about this ruling, please contact \*\*\*\*\* . Please address all correspondence to SE:T:EP:RA:T2

Sincerely,



Jason E. Levine, Manager,  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling  
Notice of Intention to Disclose

cc: