



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

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OCT 30 2014

Uniform Issue List: 408.03-00

SENT: EP: RA: T1

Legend:

Taxpayer A	=
IRA B	=
Financial Institution C	=
Company D	=
Limited Partnership E	=
Company F	=
Unit G	=
Amount 1	=
Amount 2	=

Dear :

This is in response to your request dated April 14, 2014, as supplemented by correspondence dated May 30, July 2, and September 9, 11, and 27, 2014, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

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

Taxpayer A represents that she received a distribution of her ownership interest ("interest") in Limited Partnership E from IRA B. Taxpayer A asserts that her failure to accomplish a rollover of this same investment within the 60-day period

prescribed by section 408(d)(3) of the Code was due to the improper management of her financial affairs by Company D.

Taxpayer A maintained IRA B, under section 408(a) of the Code, with Financial Institution C. On June 28, 2009, Taxpayer A entered into a subscription agreement to purchase Unit G of Limited Partnership E through IRA B, at a purchase price of Amount 1. Taxpayer A's investment was in the form of a limited partner. Limited Partnership E is a limited partnership equity fund owned by Company F. Between August, 2009 and October, 2012, Taxpayer A made five separate investments of IRA B assets totaling Amount 2 in Limited Partnership E.

In 2013, Financial Institution C determined that certain "illiquid" assets, including Limited Partnership E, would no longer be eligible to be held in an IRA maintained with Financial Institution C, including IRA B. As was the policy at that time between Financial Institution C and financial advisors of its clients, on both April 30 and May 30, 2013, Financial Institution C sent letters to Taxpayer A's financial advisor (Company D) stating that her investment in Limited Partnership E would be removed from IRA B. For unexplained reasons, Company D failed to notify Taxpayer A that IRA B was no longer eligible to hold her investment in Limited Partnership E and that such investment would be subject to income inclusion if not rolled over within 60 days after it was removed from IRA B.

When Financial Institution C removed the investment from IRA B on July 15, 2013, it did not sell the investment nor did it send funds to Taxpayer A. Taxpayer A's interest in Limited Partnership E was deposited into a non-IRA account with Financial Institution C and has not been used for any purpose. Taxpayer A was not aware of the taxable distribution until she received Form 1099-R in 2014. Consequently, Taxpayer A missed her rollover deadline. The ruling request is accompanied by a letter from Company D in which it admits that it failed to alert Taxpayer A that her interest in Limited Partnership E would be distributed from IRA B and had to be deposited into another IRA within 60 days or be subject to income inclusion.

Based on the above facts and representations, you request that the Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Taxpayer A's interest in Limited Partnership E which was distributed from IRA B on July 15, 2013.

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 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) do not apply to any amount required to be distributed under section 408(a)(6).

Revenue Procedure 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 the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of her interest in Limited Partnership E which was distributed from IRA B was due to the failure of Company D to notify her, in accordance with the existing Financial Institution C policy, that her interest in Limited Partnership E could no longer be held in IRA B and would be distributed therefrom.

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 Taxpayer A's interest in Limited Partnership E from IRA B. Taxpayer A is granted a period

of 60 days from the issuance of this letter ruling to transfer her interest in Limited Partnership E into a rollover 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 Taxpayer A's interest in Limited Partnership 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.

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
(I.D. #), , at () .

Sincerely yours,

Carlton A. Watkins

Manager
Employee Plans Technical Group 1