



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

FEB 09 2015

201519042

Uniform Issue List: 408.03-00

T:EP:RA:T1

Legend

Taxpayer A =

IRA B =

Fund C =

Financial Institution D =

Financial Institution E =

Company F =

Company G =

Individual H =

City X =

City Y =

Amount 1 =

Dear :

This is in response to your request dated November 7, 2014, as supplemented by correspondence dated January 8, 2015, in which you request, through your authorized representative, 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 A represents that she received a distribution equal to Amount 1 from IRA B, which was maintained by Financial Institution D. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to the failure to receive notification that Financial Institution D would no longer serve as the custodian for IRA B.

In 2008, Taxpayer A inherited her deceased husband's SEP-IRA, IRA B. Subsequently, IRA B was retitled in Taxpayer A's name. The assets of IRA B consisted of units ("Shares") in a private equity firm, Fund C, with Financial Institution D serving as custodian of IRA B. Company F was the investment advisor to Fund C. Company G was responsible for managing investor relations for Company F and for issuing certain financial statements to investors in Fund C.

On March 1, 2011, Taxpayer A sold her residence in City X and moved to a temporary residence in City Y. In January of 2012, Taxpayer A purchased her current home, which is also located in City Y. Beginning in April of 2011 through December of 2012, Financial Institution D mailed notices informing Taxpayer A that it would no longer serve as custodian for IRA B. However, these notices were mailed to Taxpayer A's former City X address and were not forwarded to Taxpayer A's new City Y address.

In December of 2012, Financial Institution D requested that the managers of Fund C confirm that the Shares were transferred from Financial Institution D, as the custodian of IRA B, to Taxpayer A. Individual H, the managing partner and Director of Operations for Fund C, signed the confirmation request on December 12, 2012. However, Individual H neglected to notify Taxpayer A of the transfer.

The Form 1099-R for the 2013 taxable year showing the distribution from IRA B was sent to Taxpayer A's City X address and was not forwarded to Taxpayer A's current City Y address. Company G, however, sent Taxpayer A monthly financial statements to her correct City Y address through 2014, and these statements indicated the Shares were still held in IRA B. Consequently, Taxpayer A believed that the Shares continued to be held in IRA B. Taxpayer A first discovered that the Shares were no longer held in IRA B when she received a Notice CP2000 from the Internal Revenue Service ("Service") dated June 16, 2014, relating to her 2013 tax return.

Taxpayer A represents that the assets in IRA B have not been used for any other purpose. Taxpayer A also represents that Financial Institution E has agreed to serve as an IRA custodian for the Shares if Taxpayer A receives a waiver from the Service.

Based on the above facts and representations, Taxpayer A requests a waiver of the 60-day requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1 from IRA B.

Section 408(a) of the Code defines an IRA to mean a trust created or organized in the United States, and requires that the trustee be a bank or an approved non-bank trustee.

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.

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) 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 or 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)).

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).

Section 408(d)(3)(I) of the Code provides that the Secretary of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) 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, provides that the Service will issue a ruling waiving the 60-day rollover requirement in cases 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 taxpayer. 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 are consistent with her assertion that the failure to complete a rollover of the distribution of Amount 1 from IRA B was due to postal error.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover period with respect to Amount 1. Provided all other requirements of section 408(d)(3), except the 60-day requirement, will be met with respect to the contribution of Amount 1 to an IRA, Amount 1 will be considered a rollover contribution with the meaning of section 408(d)(3).

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

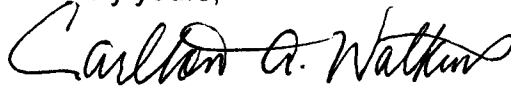
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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.

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  
Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,

A handwritten signature in cursive script that reads "Carlton A. Watkins".

Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:  
Notice of Intention to Disclose  
Deleted copy of this letter

cc: