



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201519043

FEB 11 2015

Uniform Issue List: 408.03-00

T:EP:RA:TI

Legend

Taxpayer A =

IRA B =

Fund C =

Financial Institution E =

Financial Institution F =

Individual G =

Amount 1 =

Dear :

This is in response to your request dated October 7, 2014, as supplemented by correspondence dated December 19, 2014, and January 21, 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 he received a distribution equal to Amount 1 from IRA B, which was maintained by Financial Institution E. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to false assurances by Individual G and

Financial Institution F that Taxpayer A's investment in Fund C constituted an IRA account.

On April 16, 2013, Taxpayer A took a distribution from IRA B equal to Amount 1, which amount was directly wired by Financial Institution E to Fund C. Fund C, maintained by Financial Institution F, invests in selected international small cap equities.

On April 23, 2013, Taxpayer A emailed Individual G, the Chief Operating Officer at Financial Institution F, to confirm that Fund C had received Amount 1 and that Amount 1 was deposited into an IRA account. In his email, Taxpayer A expressed concern that, if the monies did not go into an IRA account with Fund C, he would owe taxes. Taxpayer A also stated in the email that he wanted to confirm that Amount 1 had been rolled over into an IRA in Fund C while there was still time to correct any errors in effecting the rollover. In response to Taxpayer A's inquiries, Individual G confirmed Taxpayer A's investment in a new IRA in Fund C equal to Amount 1. Taxpayer A had also received assurances from Individual G that Fund C would issue a Form 5498 to document the transfer from IRA B to the "Taxpayer A IRA held in Fund C."

While preparing his federal Income Tax Return for the 2013 year, Taxpayer A received a Form 1099-R from Financial Institution E, which indicated an early distribution from IRA B. Taxpayer A emailed Individual G asking for documentation that Amount 1 was reinvested in an IRA account in Fund C. Individual G stated that she would contact Financial Institution F's accountants to look into the matter. In March of 2014, Financial Institution F informed Taxpayer A that neither Fund C nor Financial Institution F could act as a custodian for an IRA. Taxpayer A represents that Amount 1 continues to be invested in Fund C and has not been used for any other purpose.

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,

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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 his assertion that the failure to complete a rollover of the distribution of Amount 1 from IRA B was due to false assurances by Individual G and Financial Institution F that Taxpayer A's investment in Fund C constituted an IRA account.

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 within the meaning of section 408(d)(3).

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

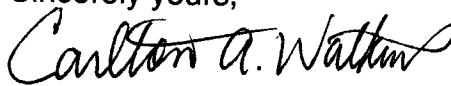
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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

Sincerely yours,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

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

cc: