



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

201520014

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

FEB 19 2015

Uniform Issue List: 408.03-00

LEGEND:

Taxpayer A =

IRA B =

Financial Institution C =

Financial Institution D =

Account E =

Financial Institution F =

Account G =

Amount 1 =

Dear :

This is in response to your letter of September 24, 2014, in which you request 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 from IRA B of Amount 1. Taxpayer A asserts 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 failure of Financial Institution D, Taxpayer's financial advisor, to place the funds in an IRA as instructed by Taxpayer A. Taxpayer A has not used Amount 1 for any other purpose.

Taxpayer A maintained IRA B with Financial Institution C. The funds were invested in a certificate of deposit (CD). On February 29, 2012, Taxpayer A received a distribution from IRA B by way of a cashier's check. Taxpayer A represents that she intended to rollover the entire amount into an IRA at Financial Institution D (which has since merged into Financial Institution F), because she maintained several other accounts at Financial Institution D. After receiving the check, Taxpayer A, on the same day, represents that she went to discuss her investment options with her financial advisor at Financial Institution D, the same financial advisor with whom she had worked on previous occasions when setting up accounts at Financial Institution D. She represented that she presented him with the check for Amount 1 and the withdrawal slip from Financial Institution C that indicated the check was for an "IRA closing." Taxpayer A represents that she directed the financial advisor to open a rollover IRA in which to deposit Amount 1. In fact, Taxpayer A represents that the financial advisor deposited Amount 1 into a non-IRA account without her knowledge. Taxpayer A, believing Amount 1 to be an IRA with Financial Institution D, reported the distribution of Amount 1 as a rollover when she prepared her year 20 taxes. She represents that she did not learn of the mistake until she received an IRS Form CP-2000 in August 2014. Taxpayer A's financial advisor at Financial Institution D provided a letter dated September 23, 2014, in which he detailed the meeting with Taxpayer A. He attached a copy of the original check for Amount 1, which also included a copy of the Financial Institution C withdrawal slip indicating the check represented IRA proceeds.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1.

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 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) of the Code).

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 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. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

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 under section 408(d)(3)(I), the IRS 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 or 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 is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 within the 60-day period was due to an error committed by her financial advisor at Financial Institution D.

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 1 from IRA B. Taxpayer A is granted a period of 60 days from the date of issuance of this ruling letter to contribute a sum up to Amount 1 into an IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to the contribution, Amount 1 will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

**201520014**

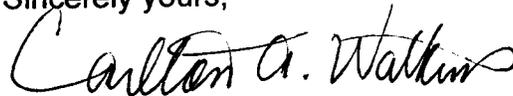
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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.

If you have any questions, please contact \_\_\_\_\_ (I.D. # \_\_\_\_\_) by phone at \_\_\_\_\_ or fax at \_\_\_\_\_. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of Ruling Letter  
Notice of Intention to Disclose