



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201526027

APR 01 2015

Uniform Issue List: 408.03-00

T:EP:RA:IT1

Legend

Taxpayer A =

IRA B =

Fund C =

Financial Institution D =

Financial Institution E =

Financial Institution F =

Amount 1 =

Dear :

This is in response to your request dated September 23, 2014, as supplemented by correspondence dated February 13, 2015, and March 26, 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 D. Taxpayer A asserts that

his failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) of the Code was due to misleading communications with Financial Institution E.

In 2012, Taxpayer A contacted Financial Institution E to inquire about investing his own IRA in Fund C. Financial Institution E informed Taxpayer A that he could invest his IRA in Fund C and sent him a Subscription Agreement for U.S. Tax Exempt Investors. On June 25, 2012, Taxpayer A completed the Subscription Agreement to purchase shares ("Shares") in Fund C equal to Amount 1. On the Subscription Agreement, Taxpayer A identified the form of organization of the Subscriber of the Shares as an IRA. Taxpayer A also completed a form entitled "Accredited Investor Questionnaire" ("Questionnaire"), on which Taxpayer A indicated "IRA" as the basis for the Subscriber's exemption from U.S. federal income tax.

On June 29, 2012, Amount 1 was wired directly from IRA B to Fund C's bank, Financial Institution F, and then transferred by Financial Institution F to Fund C in July of 2012. Monthly financial statements received by Taxpayer A from Fund C identified the holder of the Shares as "Taxpayer A IRA." Taxpayer A never received a Form 1099-R for tax year 2012 and believed that Amount 1 had been successfully rolled over from IRA B to an IRA with Fund C. However, on July 2, 2014, Taxpayer A received a letter from a third-party administrator of Fund C requesting proof of the IRA custodian holding the Shares in Fund C. On further investigation, Taxpayer A discovered that Fund C was not an IRA custodian and that Amount 1 had not been rolled over from IRA B to another IRA.

Taxpayer A submitted a letter from Financial Institution E explaining the miscommunication, and Financial Institution E has revised the language in its Subscription Agreement. The Subscription Agreement now requires a representation that the individual who established the IRA has directed the IRA custodian to execute the Subscription Agreement, and it requires the name and address of the IRA custodian or trustee. Taxpayer A represents that he has not used Amount 1 for any other purpose.

Based on the above facts and representations, you request a ruling that the Service waive the 60-day rollover requirement under section 408(d)(3) of the Code as to the distribution of Amount 1 and that Taxpayer A be given a period of 60 days from the issuance of the ruling to complete the rollover of Amount 1.

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).

Effective January 1, 2015, all of an individual's IRAs are considered a single IRA for purposes of applying the one rollover per year limitation.

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 and documentation submitted are consistent with Taxpayer A's assertion that the failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) of the Code was due to misleading communications with Financial Institution E, which has since revised the language in its Subscription Agreement.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover requirement with respect to the distribution of Amount 1 and Taxpayer A has 60 days from the issuance of this letter ruling to contribute Amount 1 from Fund C into an IRA. Such rollover contribution can consist only of the cash received in the distribution of Amount 1 from IRA B. Any earnings associated with Amount 1 that accumulated in Fund C since June 29, 2012, will be removed from Fund C within 60 days. Such earnings are includible in Taxpayer A's gross income and cannot be rolled over to an IRA.

Provided all other requirements of section 408(d)(3) of the Code, 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 408(a)(6) of the Code.

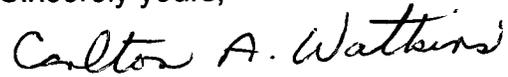
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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  
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: