



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201542008

JUL 22 2015

Uniform Issue List: 408.03-00

SET: EP: RA: T1

Legend:

Taxpayer A =

IRA B =

Custodian C =

Financial Institution D =

Amount 1 =

Dear :

This is in response to a letter dated October 3, 2014, as supplemented by a letter dated May 21, 2015, submitted on your behalf by your authorized representative, 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 totaling Amount 1. Taxpayer asserts that her failure to complete a rollover of Amount 1 within the 60-day period prescribed by section 408(d)(3) of the Code was due to the failure of Custodian C to notify Taxpayer A that the redeposit of Amount 1 within the 60-day period, had been reversed.

On April 23, 2013, Taxpayer A received a distribution of Amount 1 with the intent to complete a timely rollover back into IRA B. On June 14, 2013, Taxpayer A deposited a check in Amount 1 into IRA B. On June 15, 2013, an on-line inquiry confirmed that Amount 1 was accepted as a redeposit into IRA B.

However, due to confusion concerning the account the check was drawn on with Financial Institution D, the check was returned due to the account being closed.

Custodian C did not immediately notify Taxpayer A that the deposit had been reversed. Instead, Custodian C issued a letter dated June 19, 2013, notifying Taxpayer A that the deposit into IRA B, on June 14, 2013, was being reversed. However, due to the relocation of Taxpayer A's residence, the letter was not received by Taxpayer A until several weeks after the expiration of the 60-day period. Upon receipt of the June 19, 2013, letter, Taxpayer A immediately arranged for a replacement check which was deposited into IRA B on July 24, 2013. Taxpayer A has submitted a letter from Financial Institution D which substantiates the confusion over the accounts the check was drawn on.

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

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 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)).

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.

Rev. Proc. 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 documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover was due to the failure of Custodian C to timely notify Taxpayer A of the reversal of the June 14, 2014, deposit into IRA B.

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. Provided all other requirements of section 408(d)(3) of the Code were met, except the 60-day requirement, the redeposit of Amount 1 on July 24, 2013, will be considered a rollover contribution within the meaning of section 408(d)(3)(A) 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.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

If you have any questions, please contact \_\_\_\_\_ (Identification Number \_\_\_\_\_) at \_\_\_\_\_. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton Watkins, Manager,  
Employee Plans Technical Group 1

Enclosures:

- Deleted Copy of Ruling Letter
- Notice of Intention to Disclose

cc: