



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

201542009

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 22 2015

Uniform Issue List: 408.03-00

SET:EP:RA:T1

Legend

Taxpayer A =

IRA B =

Account C =

Financial Institution D =

Amount 1 =

Dear :

This letter is in response to a request for a letter ruling dated April 17, 2014, as supplemented by correspondence dated June 26, 2015, from 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 were submitted under penalty of perjury in support of your request for a waiver.

Taxpayer A maintained IRA B, an individual retirement account as defined in section 408(a) of the Code, with Financial Institution D. Taxpayer A represents that on November 14, 2012, Financial Institution D mistakenly made a duplicate distribution, equal to Amount 1, from IRA B. Taxpayer A asserts that his failure to accomplish a rollover of Amount 1 within the 60-day rollover period prescribed

by section 408(d)(3)(A) was because he was not aware that Financial Institution D had made the unauthorized distribution.

Taxpayer A represents that in 2009, he began receiving substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Code from his IRA accounts. At this time, Taxpayer A instructed Financial Institution D to annually distribute Amount 1 from IRA B, with additional amounts to be distributed from Taxpayer A's other IRAs. Beginning in 2009, Financial Institution D distributed Amount 1 in October of each year via electronic transfer from IRA B to Account C, a non-IRA checking account that was also maintained by Financial Institution D. However, on November 14, 2012, Financial Institution D distributed an additional amount, equal to Amount 1, due to a computer systems error that caused the duplicate payment to be made one month after the regularly scheduled payment. During October of 2013, while reviewing his 2012 federal Income Tax Return as prepared by his accountant, Taxpayer A discovered the distribution of the duplicate payment. The request for relief is accompanied by a letter from Financial Institution D acknowledging its mistake.

Based on the above facts and representations, you request that the Service waive the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B on November 14, 2012, and that Taxpayer A be given 60 days following the issuance of a letter granting a waiver to roll over Amount 1 into an IRA.

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

Revenue Procedure 2003-16, 2003-4 I.R.B. 359, 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 and documentation submitted by Taxpayer A support his assertion that the failure to timely roll over Amount 1 into IRA B was because he was not aware that on November 14, 2012, Financial Institution D erroneously made a duplicate distribution, equal to Amount 1, from 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 on November 14, 2012. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute Amount 1 into an IRA. Provided all other requirements of section 408(d)(3), except the 60-day rollover requirement, are met with respect to such contribution, the contribution 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.

This ruling is limited to a request for a waiver of the 60-day rollover period. No opinion is expressed as to whether the payments from IRA B and Taxpayer A's other IRAs constitute a series of substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Code.

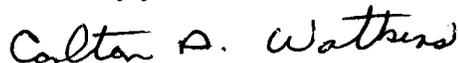
Further, no opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations that may be applicable hereto.

This letter ruling is directed solely 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 have any questions regarding this ruling, you may contact
at

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

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

cc: