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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

AUG 05 2015

Uniform Issue List: 408.03-00

SE:T:EP:RA:T1

Legend:

Taxpayer A =

Taxpayer B =

IRA C =

Financial Institution D =

IRA E =

Financial Institution F =

Individual G =

Amount 1 =

Amount 2 =

Amount 3 =

Amount 4 =

Dear :

This letter is in response to a letter dated September 24, 2014, as supplemented by correspondence, dated February 9, 10, April 30 and May 8, 2015, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalties of perjury in support of your request.

Taxpayer A represents that she received a distribution from IRA C totaling Amount 1. Taxpayer B represents that he received a distribution from IRA E totaling Amount 2. Taxpayer A and Taxpayer B assert that their failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to their reliance on the inaccurate information provided by Individual G, a financial advisor with Financial Institution D concerning the rollover period, as well as Taxpayer B's medical condition.

Taxpayer A maintained IRA C with Financial Institution D. Taxpayer B maintained IRA E with Financial Institution F. On December 16, 2013, Taxpayer A withdrew Amount 1 from IRA C. On December 8, 2013, Taxpayer B withdrew Amount 2 from IRA E. The funds were intended to be used on a short-term basis for living expenses. Taxpayer A states that she withdrew Amount 1 from IRA C based on Individual G's recommendation. In addition, Individual G advised Taxpayer A that she had 90 days to complete a rollover. Taxpayer B used a portion (Amount 3) of the withdrawal to pay for medical expenses not covered by insurance.

Taxpayer B was diagnosed with cancer in 2012 and had to have surgery on February 25, 2013. He continued to face extensive post-operative treatment for this illness throughout the rollover period for Amount 2. Taxpayer B represents that his medical condition interfered with the management of his financial affairs. The ruling request is accompanied by medical documentation which supports Taxpayer B's representations.

Taxpayer A and B intended to roll these amounts back into IRAs within the 90-day period. On March 7, 2014, Taxpayer A redeposited Amount 1 into IRA C, 81 days after it was distributed. Because of Taxpayer B's medical condition, on March 11, 2014, Taxpayer B redeposited Amount 4 into IRA E 93 days after it was distributed.

Based upon the foregoing facts and representations, you request that the Service waive the 60-day rollover requirement with respect to the distributions of Amount 1 from IRA C and Amount 4 from IRA E.

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 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) 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.

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), 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 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 was caused by her reliance on the erroneous advice concerning the 60-day rollover period she received from Individual G. In addition, the information presented and documentation submitted by Taxpayer B is consistent with his assertion that his failure to accomplish a timely rollover of Amount 4 was caused by complications from an ongoing medical condition which interfered with the management of his financial affairs.

Therefore, pursuant to section 408(d)(3) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA C and Amount 4 from IRA E. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to Taxpayer A's contribution of Amount 1 into IRA C on March 7, 2014, and Taxpayer B's contribution of Amount 4 into IRA E on March 11, 2014, such contributions will be considered rollover contributions within the meaning of section 408(d)(3) of the Code.

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

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

If you wish to inquire about this ruling, please contact (I.D. #),
at ()

Sincerely yours,

Carlton A. Wathens

Manager
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose