



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

201602012

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

OCT 15 2015

SE:T:EP:RA:T2

U.I.L. 408.03-00

XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXX

Legend:

Taxpayer A = XXXXXXXXXXXX

IRA X = XXXXXXXXXXXX

Company B = XXXXXXXXXXXX

Credit Union C = XXXXXXXXXXXX

Amount D = XXXXXXXXXXXX

Date 1 = XXXXXXXXXXXX

Date 2 = XXXXXXXXXXXX

Date 3 = XXXXXXXXXXXX

Date 4 = XXXXXXXXXXXX

Date 5 = XXXXXXXXXXXX

Date 6 = XXXXXXXXXXXX

Date 7 = XXXXXXXXXXXX

Dear xxxxxxxxxxxx:

This is in response to your letter dated February 20, 2015, as supplemented by correspondence dated August 24, 2015, 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 your request.

On Date 3, Taxpayer A received a distribution from IRA X totaling Amount D. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to her medical condition which impaired her ability to accomplish a timely rollover.

Taxpayer A represents that on Date 1, she was first diagnosed with cancer and on Date 2 Taxpayer A had surgery. Taxpayer A was healing from surgery for eight weeks and adjusting to replacement hormones with synthetic oral medication. Taxpayer A began radiation therapy on Date 5. Follow-up visits, blood tests, medication adjustments and ultrasounds continued through Date 7.

Taxpayer A had IRA X with Company B. Taxpayer A represents that because Company B ceased offering the product she had originally purchased, called "Guaranteed Minimum Income Benefit", she withdrew Amount D from IRA X with the intent to rollover Amount D into a rollover IRA with Credit Union C.

On Date 3, Taxpayer A withdrew Amount D from IRA X with the intent to rollover the funds into an IRA account and deposited Amount D into her checking account on Date 4. Taxpayer A was stressed and distracted by the very serious concerns for her health at the time she received the distribution from IRA X.

Taxpayer A represents that prior to and during the 60-day rollover period she experienced numerous medical problems, requiring hospitalization, surgery, and mental stress.

On Date 6, which was 6 days after the 60-day rollover period, Taxpayer A opened an IRA account with Credit Union C so that she could rollover Amount D into an IRA with Credit Union C. However, because the 60-day rollover period had expired Credit Union C deposited Amount D into her savings account. Amount D has not been used for any other purpose.

Medical documentation shows that Taxpayer A had been treated for her medical condition prior to and during the 60-day rollover period.

Based on the facts and representations, Taxpayer A requests that the Internal Revenue Service (the Service) waive the 60 day rollover requirement with respect to the distribution of Amount D.

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 60th day after the day on which the individual received 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 included 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 occur 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, 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, 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 was due to her medical condition which impaired her ability to accomplish a timely rollover.

Therefore, pursuant to Code section 408(d)(3)(I), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount D from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute Amount D into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to such contribution, the contribution of Amount D will be considered a rollover contribution within the meaning of section 408(d)(3) 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.

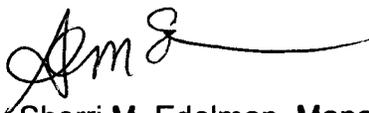
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

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

201602012

If you have any questions regarding this letter, please contact xxxxxxxxxxxx,
xxxxxxxxxxxx, at xxxxxxxxxxxx. All correspondence should be addressed to
SE:T:EP:RA:T:2.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Sm E', with a long horizontal flourish extending to the right.

Sherri M. Edelman, Manager
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose