



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

201610024

DEC 07 2015

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

SE:T:EP:RA:T1

Uniform Issue List: 408.03-00

Legend

Taxpayer A =

IRA B =

Fund C =

Company D =

Financial Institution E =

Financial Institution F =

Amount 1 =

Dear :

This is in response to your request dated April 23, 2014, as supplemented by correspondence dated November 5, 2014, June 1, 2015, and November 19, 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 she received a distribution equal to Amount 1 from IRA B, an individual retirement account under section 408(a) of the Code, which was maintained by Financial Institution E. Taxpayer A asserts that her failure to accomplish a rollover of Amount 1 within the 60-day period prescribed by 408(d)(3)(A) was due to a miscommunication with Company D and the fact that she was unaware the distribution had occurred.

In 2008, Taxpayer A consulted with an official at Company D about the possibility of establishing a rollover IRA that would invest in Fund C. After Company D obtained an IRA custodian for Taxpayer A's investment, Taxpayer A rolled over cash distributed from her IRA to IRA B, which was maintained by Financial Institution E. The cash was used to invest in Fund C in an amount equal to Amount 1. Taxpayer A paid Company D an annual fee to manage her investment, and Company D advised Taxpayer A regarding any payment of fees to Financial Institution E.

On November 29, 2012, Taxpayer A received a bill from Financial Institution E for the current fee and fees that were past due. However, Taxpayer A did not pay these fees as she believed that, given the fees paid to Company D and her prior experience with Company D, Company D was handling all aspects of her investment in Fund C. Subsequently, Taxpayer A received a distribution from Financial Institution E, which liquidated IRA B by distributing Amount 1. Taxpayer A was confused, however, because she did not receive a check from Financial Institution E.

In 2014, Taxpayer A received a Form 1099-R that reported the distribution as taxable. Taxpayer A represents that she has not used Amount 1 for any other purpose. Taxpayer A provided correspondence from an IRA custodian, Financial Institution F, that it will hold Amount 1 in an IRA.

Based on the above facts and representations, Taxpayer A requests that the Service waive the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B and that she be given 60 days from the date of a favorable letter ruling to roll over the distribution of Amount 1 into another 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 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. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I).

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 Service has the authority to waive the 60-day rollover requirement where the individual failed to complete a rollover to another IRA within the 60-day rollover period because of one of the factors enumerated in Rev. Proc. 2003-16; for example, errors committed by a financial institution, death, hospitalization, postal error, incarceration, and/or disability.

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 a miscommunication with Company D and the fact that she was unaware the distribution had occurred.

Therefore, pursuant to section 408(d)(3)(l) 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 complete the rollover of Amount 1 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, such 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.

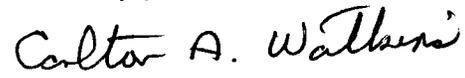
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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: