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

DEC 16 2015

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Uniform Issue List: 408.03-00

SE: T. EP. RAH

Legend

Taxpayer A =

IRA B =

IRA Annuity C =

Account D =

Financial Institution E =

Financial Institution F =

Financial Institution G =

Amount 1 =

Dear :

This is in response to your request dated May 8, 2015, as supplemented by correspondence dated September 16, 2015, and October 1, 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 Annuity C, which was issued by Financial Institution F. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to Taxpayer A's medical condition.

Taxpayer A suffered from a serious medical condition that impaired her ability to handle her financial affairs. After consulting with her financial advisor, on August 8, 2014, Taxpayer A requested a form to surrender her IRA Annuity C, an IRA annuity contract issued by Financial Institution F and held in IRA B. IRA B was maintained by Financial Institution E. On August 26, 2014, Financial Institution F transferred the surrender value of IRA Annuity C, equal to Amount 1, to non-IRA Account D. Account D was Taxpayer A's checking account maintained by Financial Institution G.

In February of 2015, Taxpayer A received a Form 1099-R for the distribution of Amount 1, which alerted her to the fact that the distribution was a taxable distribution. Taxpayer A contacted her advisor who assured her that the distribution was not taxable and the Form 1099-R was issued in error. On further investigation, Taxpayer A learned that her advisor was incorrect, and contacted an attorney to help her rectify the mistake. Subsequently, on May 19, 2015, Taxpayer A was diagnosed with several other serious illnesses. Taxpayer A represents that Amount 1 has not been used for any other purpose.

Based on the above facts and representations, Taxpayer A requests a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1 from IRA Annuity C.

Section 408(a) of the Code defines an IRA to mean a trust created or organized in the United States, and requires that the trustee be a bank or an approved non-bank trustee.

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).

Effective January 1, 2015, all of an individual's IRAs are aggregated for purposes of applying the one rollover per year limit set forth in section 408(d)(3)(B) of the Code.

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.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, provides that the Service will issue a ruling waiving the 60-day rollover requirement in cases 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 taxpayer. 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 are consistent with her assertion that the failure to complete a rollover of the

distribution of Amount 1 from IRA Annuity C was due to Taxpayer A's medical condition during the 60-day rollover period.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover period with respect to the distribution of Amount 1 from IRA Annuity C. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute Amount 1 to an IRA. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the contribution of Amount 1 into an IRA 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