



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
FEB 24 2016

201621020

Uniform Issue List: 408.03-00

SE: T: EP: RA: T |

Legend

Taxpayer A =

IRA B =

Company C =

Company D =

Company E =

Trust Company F =

Trust Company G =

Amount 1 =

Amount 2 =

Amount 3 =

Dear :

This is in response to your request dated September 9, 2015, as supplemented by correspondence dated January 11, 2016, 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 he received a distribution equal to Amount 1, Amount 2, and Amount 3 from IRA B, which was maintained by Company C. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) of the Code was due to mistakes made by his employer, Company D, acting through its wholly-owned affiliate, Company E, and Trust Company F.

In February of 2013, Taxpayer A was hired by Company D. As part of Company D's internal compliance procedures, Taxpayer A was asked to transfer his existing accounts, including his IRA, to Company D. To facilitate the IRA transfer, Taxpayer A began working with Company E, which assisted newly-hired employees in rolling over their existing IRA accounts to new IRAs with Company D. At the time, Company D relied on Trust Company F to serve as the trustee for employees' IRAs.

On June 11, 2013, Company E requested a transfer of IRA B on Taxpayer A's behalf, and on June 17, 2013, the assets of IRA B equal to Amount 1, Amount 2 and Amount 3 were transferred to an account with Company D entitled "Trust Company F FBO Taxpayer A IRA." However, this account was not an IRA account. In May of 2014, Company D was notified by Trust Company F that Taxpayer A's IRA account had not been approved in its records. On January 1, 2015, Trust Company G became successor trustee for IRAs that were originally trusted by Trust Company F. Trust Company G has indicated that if a waiver is granted, it will serve as trustee for Taxpayer A's IRA.

Taxpayer A represents that he has not used Amount 1, Amount 2, or Amount 3 for any other purpose. Company E submitted an affidavit by the consultant who assisted Taxpayer A in attempting to roll over IRA B into another IRA.

Based on the above facts and representations, you request a ruling that the Service waive the 60-day rollover requirement under section 408(d)(3) of the Code as to the distribution consisting of Amount 1, Amount 2 and Amount 3 and that Taxpayer A be given a period of 60 days from the issuance of the ruling to complete the rollover of Amounts 1, 2 and 3.

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 defines, and 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.

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 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 mistakes made by Company D, Company E, and Trust Company F.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover requirement with respect to the distribution equal to Amount 1, Amount 2 and Amount 3, and Taxpayer A has 60 days from the issuance of this letter ruling to complete the rollover of an amount not exceeding Amount 1, Amount 2, and Amount 3 to an IRA. Such rollover can consist only of the cash (or other property) received in the distribution of Amount 1, Amount 2 and Amount 3 from IRA B.

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, Amount 2 and Amount 3, 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.

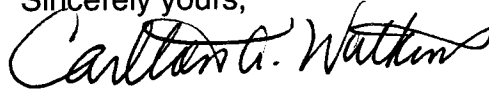
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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,

A handwritten signature in cursive script, reading "Carlton A. Watkins".

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

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

cc: