



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

201622036

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

MAR 01 2016

SEP: T: EP: RA: T2

Uniform Issue List: 408.03-00

Legend:

Taxpayer A: = ***

SEP IRA X = ***

Amount 1 = ***

Amount 2 = ***

Dear ***:

This is in response to your letter, dated November 11, 2015, as supplemented by correspondence dated January 14, 2016, in which your authorized representative, on your behalf, requested 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 of Amount 1, on November 19, 2012, from SEP IRA X. Taxpayer A asserts that his failure to accomplish a rollover within the 60 day period prescribed by section 408(d)(3) was due to his medical condition which impaired his ability to accomplish a timely rollover. Taxpayer A did deposit Amount 2 back into SEP IRA X on January 28, 2013. Taxpayer further represents that Amount 1 has not been used for any other purpose.

Taxpayer A requested and received the distribution of Amount 1 due to concerns about expenses incurred as a result of damages to his home from Hurricane Sandy. In

October 2012, Taxpayer A was referred by his primary care physician for a neurological assessment. Taxpayer has provided a copy of the assessment, dated October 15, 2012, which indicated a neurodegenerative condition. Taxpayer A was referred for additional testing in January 2013, prior to the expiration of the 60-day rollover period. Taxpayer A's medical condition, exacerbated by the damage to his home attributable to Hurricane Sandy, impaired his ability to complete the roll over within the 60-day rollover period.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1 from SEP IRA X.

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 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 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.

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 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 his assertion that his failure to accomplish a timely rollover was caused by a medical condition which prevented him from accomplishing the rollover during the 60-day rollover period.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from SEP IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to the transfer of Amount 1 into SEP IRA X, on January 28, 2013, such contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code. The difference between Amount 1 and Amount 2, while nominal, cannot be subject to this waiver of the 60-day rollover requirement, we are unable to approve more than the original distribution. This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) 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.

A copy of this letter ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office.

201622036

If you wish to inquire about this ruling, please contact *** (ID#***) at ***.
Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Sherri M. Edelman, Manager,
Employee Plans Technical Group 2

Enclosures:

- Deleted copy of ruling letter
- Notice of Intention to Disclose

cc: ***

