



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201627007

APR 06 2016

Uniform Issue List: 408.03-00

SE: T: EP: RA: T1

Legend

Taxpayer A =

Taxpayer B =

IRA C =

IRA D =

IRA E =

IRA F =

Financial Institution G =

Financial Institution H =

Company I =

Amount 1 =

Amount 2 =

Dear _____ :

This is in response to your request dated November 18, 2015, as supplemented by correspondence dated March 7, 2016, 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 the ruling requested.

Taxpayer A represents that he received a distribution equal to Amount 1 from IRA C, which was maintained by Financial Institution G. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to loss of memory and cognitive function following major surgery.

Taxpayer B, Taxpayer A's spouse, represents that she received a distribution equal to Amount 2 from IRA D, which was maintained by Financial Institution G. Taxpayer B asserts that her failure to accomplish a rollover within the 60-day period was because she believed Taxpayer A had rolled over her IRA distribution.

In June, 2013, Taxpayer A, age 86, had coronary bypass surgery. In October, 2013, Taxpayer A and Taxpayer B met with their financial advisor with Company I to discuss their investments. The investment advisor indicated that since the level of their assets had fallen below a minimum level, Company I could no longer manage their assets and they should look at annuities and other similar investments for their assets. On December 16, 2013, Taxpayer A withdrew Amount 1 from IRA C and Amount 2 from IRA D with Financial Institution G. Taxpayer A deposited Amounts 1 and 2 into Taxpayer A's and Taxpayer B's joint checking account, intending to hold the distributions there for four to six weeks while he explored other investment options. However, Taxpayer A has suffered ongoing memory loss and cognitive issues as a result of the major surgery in June of 2013. Consequently, Taxpayer A forgot about the distributions. In June of 2014, the son of Taxpayer A and Taxpayer B discovered the error when, on reviewing the Taxpayers' finances, he noticed Amount 1 and Amount 2 in the Taxpayers' checking account and learned they were IRA distributions. The Taxpayers' son advised Taxpayer A to complete the rollovers to IRAs with Financial Institution H, and guided the Taxpayers in completing the rollovers. On July 24, 2014, Taxpayer A rolled over Amount 1 into IRA E with Financial Institution H. On August 7, 2014, Taxpayer B rolled over Amount 2 into IRA F, which was also maintained by Financial Institution H.

Taxpayer A and Taxpayer B represent that Amount 1 and Amount 2 have not been used for any other purpose. Taxpayer A and Taxpayer B have submitted documentation in support of the above representations.

Based on the above facts and representations, Taxpayer A requests a waiver of the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA C.

Based on the above facts and representations, Taxpayer B requests a waiver of the 60-day rollover requirement with respect to the distribution of Amount 2 from IRA D.

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).

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 loss of memory and cognitive function after major surgery.

The information and documentation submitted are consistent with Taxpayer B's assertion that the failure to accomplish a rollover within the 60-day period was because she believed Taxpayer A had rolled over her IRA distribution.

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 and Amount 2. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to the contribution of Amount 1 to IRA E and Amount 2 to IRA F, such contributions are considered a rollover contribution within the meaning of section 408(d)(3).

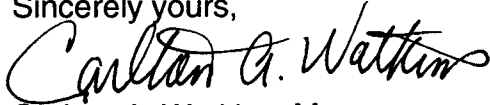
This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

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.

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 that reads "Carlton A. Watkins".

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

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