



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201628024

APR 14 2016

U.I.L. 408.03-00

SET: EP: RA: T3

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A	=	XXXXXXXXXXXX
IRA X	=	XXXXXXXXXXXX
IRA Y	=	XXXXXXXXXXXX,
IRA Z	=	XXXXXXXXXXXX
Bank B	=	XXXXXXXXXXXX
Bank E	=	XXXXXXXXXXXX
Bank F	=	XXXXXXXXXXXX
Bank G	=	XXXXXXXXXXXX
Amount L	=	XXXXXXXXXXXX
Amount M	=	XXXXXXXXXXXX
Amount N	=	XXXXXXXXXXXX
Date 1	=	XXXXXXXXXXXX

Dear xxxxxxxxxx:

This letter is in response to your request dated August 5, 2015, as supplemented by correspondence dated December 21, 2015, submitted by your authorized representative, 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 asserts that his failure to accomplish a rollover of Amounts L, M and N within the 60-day period prescribed by section 408(d)(3) of the Code was due to his diminishing mental capacity which affected his ability to understand and handle his financial transactions.

Taxpayer A had three IRA accounts with Bank B. (IRA X, IRA Y and IRA Z).

On Date 1, Taxpayer A closed all three IRA accounts and received three checks. Amount L was distributed from IRA X. Amount M was distributed from IRA Y. Amount N was distributed from IRA Z. Also, on Date 1, Taxpayer A deposited Amount L into his checking account at Bank G. Amount M was deposited into his savings account at Bank E. Amount N was deposited into his checking account at Bank F. Taxpayer A wanted to move the funds in his IRA accounts to banks that were closer to his home. Taxpayer A did not understand that the distribution checks needed to be rolled over into another IRA account, but was only concerned about moving the funds to banks closer to his home.

Amounts L, M and N have not been used for any other purpose and remain in Taxpayer A's checking and savings accounts at Banks E, F and G.

It was not discovered until , when Taxpayer A was having his federal tax return prepared, that Taxpayer A received distributions from IRAs X, Y and Z.

Medical documentation submitted shows that Taxpayer A has limited memory retention and diagnosed dementia which causes problems with his judgment. His physician noted that Taxpayer A is not competent to make financial decisions on his own.

Based on the foregoing facts and representations, you request that the Internal Revenue Service (Service) waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amounts L, M and N.

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 60<sup>th</sup> day after the day on which the individual received 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 60<sup>th</sup> 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 included 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. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R. B. 359, 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 on behalf of Taxpayer A is consistent with the assertion that his failure to accomplish a timely rollover during the 60-day period was due to his medical condition and mental capacity which affected his ability to understand and handle his financial transactions.

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 Amounts L, M and N from IRA X, IRA Y and IRA Z respectively. Taxpayer A is granted a period of 60 days from the issuance of this letter to contribute amounts up to, but not exceeding Amounts L, M and N into rollover IRAs. Provided all other requirements of Code section 408(d)(3), except the 60-day requirement, are met with respect to such contributions, the contributions of Amounts L, M and N will be considered rollover contributions within the meaning of section 408(d)(3) of the Code.

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.

A copy of this letter is being sent to your authorized representative pursuant to a power of attorney on file with this office.

**201628024**

If you have any questions concerning this ruling, please contact xxxxxxxxxxxxxxxx,  
xxxxxxxxxxxxxxxxxx, at xxxxxxxxxxxxxxxx. All correspondence should be addressed to  
SE:T EP RA:T:3.

Sincerely yours,

*for* *Ada Perry*  
Edward R. Baier, Manager  
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling  
Notice of Intention to Disclose

cc:

xxxxxxxxxxxxxx