

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

APR 20 2016



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List: 408.03-00

SE: T: EP: RA: T1

Legend

Taxpayer A =

Taxpayer B =

IRA C =

IRA D =

Non-IRA Account E =

Non-IRA Account F =

Financial Institution G =

Financial Institution H =

Financial Institution I =

Financial Institution J =

Conservator K =

State M =

Amount 1 =

Amount 2 =

Dear :

This is in response to your request dated January 18, 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.

Conservator K represents that Taxpayer A received a distribution equal to Amount 1 from IRA C, which was maintained by Financial Institution G. Conservator K represents that Taxpayer A's 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 deteriorating mental condition.

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 H. Taxpayer B asserts that her failure to accomplish a rollover within the 60-day period was because Taxpayer B relied on Taxpayer A to handle her financial affairs and was also preoccupied with Taxpayer A's illness.

On March 19, 2013, Taxpayer A withdrew Amount 1 from IRA C. On March 28, 2013, Taxpayer A deposited Amount 1 into a non-IRA savings account, Non-IRA Account F, which was maintained by Financial Institution J. The documentation submitted shows that Amount 1 has not been used for any other purpose.

On July 29, 2013, Taxpayer A withdrew Amount 2 from Taxpayer B's IRA D and on August 8, 2013, he deposited Amount 2 into a non-IRA checking account, Non-IRA Account E, which was maintained by Financial Institution I. The documentation submitted shows that Amount 2 has not been used for any other purpose.

Taxpayer A and Taxpayer B are elderly. In February of 2012, Taxpayer A was diagnosed with Alzheimer's. On August 21, 2014, Taxpayer A's and Taxpayer B's daughter, Conservator K, was appointed by State M to manage Taxpayer A's financial affairs. Conservator K discovered the failed rollovers when Taxpayer A and Taxpayer B received a Notice of Deficiency from the Service for the year.

Based on the above facts and representations, you request a waiver of the 60-day rollover requirement with respect to the distributions of Amount 1 from IRA C and 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 Conservator K's assertion that Taxpayer A's failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to his deteriorating mental condition.

The information and documentation submitted are consistent with Taxpayer B's assertion that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was because she relied on Taxpayer A to handle her financial affairs.

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, will be met with respect to the contributions of Amount 1 and Amount 2 to IRAs, such contributions will be considered rollover contributions within the meaning of section 408(d)(3). Taxpayer A and Taxpayer B have 60 days from the issuance of this letter ruling to complete the rollovers of Amount 1 and Amount 2 into their own IRAs.

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

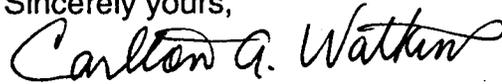
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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 .

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

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

Cc: