



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

201640026

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

U.I.L. 408.03-00

JUL 06 2016

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SE:T:EP:RA:T2

Legend:

- Taxpayer A = XXXXXXXXXXXX
- Individual B = XXXXXXXXXXXX
- IRA X = XXXXXXXXXXXX
- Financial Institution C = XXXXXXXXXXXX
- Amount D = XXXXXXXXXXXX
- Trust E = XXXXXXXXXXXX
- Individual M = XXXXXXXXXXXX
- Date 1 = XXXXXXXXXXXX
- Date 2 = XXXXXXXXXXXX
- Date 3 = XXXXXXXXXXXX
- Date 4 = XXXXXXXXXXXX

Dear xxxxxxxx:

This is in response to your letter dated October 14, 2015, as supplemented by correspondence dated March 2, 2016, and June 16, 2016, submitted on your behalf 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 (Code).

The following facts and representations have been submitted under penalty of perjury in support of your request.

On Date 1, Taxpayer A received a distribution from IRA X totaling Amount D. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to her disability and her responsibility as a caregiver for her mother, Individual B, which impaired her ability to accomplish a timely rollover within the 60-day rollover period.

Taxpayer A resided with Individual M, in a jointly owned house. Individual B, Taxpayer A's mother, unexpectedly came to live with Taxpayer A and Individual M. However, Individual B required continued care and a stable environment due to her physical and mental conditions. When Taxpayer A's mother came to live with Taxpayer A, Individual M promised Taxpayer A that he would assist Taxpayer A in caring for Taxpayer A's mother, but defaulted on all of his promises. Due to Individual M's hostile behavior, it became necessary for Taxpayer A to move Individual B to a suitable house where she could care for her mother.

As trustee of Trust E, Taxpayer A could have borrowed Amount D from Trust E to purchase another house. However, on Date 1, Taxpayer A withdrew Amount D from IRA X in order to purchase a home for her and her mother with the intention to rollover Amount D back into IRA X when she received the funds from Individual M for her share of their jointly owned house.

Due to the delays by Individual M in selling the jointly owned house, Taxpayer A did not receive her share of the jointly owned property until Date 2, which was after the 60-day rollover period. On Date 3, she mailed Amount D to Financial Institution C to rollover into IRA X. However, Financial Institution C deposited Amount D into Taxpayer A's brokerage account and on Date 4 transferred Amount D back into IRA X.

Taxpayer A represents that she is disabled due to an autoimmune disease. As a result of the stress of caring for her mother, she suffered a major flare up of her symptoms and was incapacitated for days. Taxpayer A further represents that stressful circumstances and the deterioration of her relationship with Individual M, and her mother's precarious health and mental condition along with her own disability impaired Taxpayer A's ability to accomplish a timely rollover.

Documentation from Taxpayer A's physician and her mother's physician shows that Taxpayer A has several medical conditions and is considered disabled, and that her mother needs continued care and requires a stable environment because of dementia.

Based on the facts and representations, Taxpayer A requests that the Internal Revenue Service (Service) waive the 60 day rollover requirement with respect to the distribution of Amount D.

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 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 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 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 and good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occur 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, or 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 the representation that her disability and her responsibilities as a caregiver for Individual B impaired her ability to accomplish a timely rollover within the 60-day rollover period.

Therefore, pursuant to Code section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount D from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to such contribution, the contribution of Amount D into IRA X on Date 4 will be considered a rollover contribution 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.

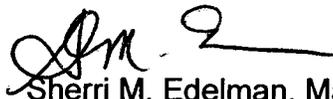
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This letter is directed only to the taxpayer that 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.

If you have any questions regarding this letter, please contact xxxxxxxxxxxx, xxxxxxxxxxxx. All correspondence should be addressed to SE:T:EP:RA:T:2.

Sincerely yours,



Sherri M. Edelman, Manager
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose

cc:

xxxxxxxxxx
xxxxxxxxxx
xxxxxxxxxx