



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

201643029

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 27 2016

Uniform Issue List: 408.03-00

SE: T: EP: RA: TI

Legend

Decedent A =

Taxpayer B =

IRA C =

Non-IRA Account D =

Financial Institution E =

Financial Advisor F =

Company G =

Individual H =

Trust I =

State M =

Shares and Cash =

Dear :

This is in response to your request dated March 28, 2016, as supplemented by correspondence dated June 29, 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.

Taxpayer B withdrew cash and shares of stock from IRA C ("Shares and Cash"). Taxpayer B asserts that the failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to bad advice from Financial Advisor F and grief following the death of his spouse, Decedent A.

Decedent A maintained an IRA, IRA C, with Financial Institution E. Decedent A named her spouse, Taxpayer B, as the 100 percent primary beneficiary of her IRA. In 2013, Decedent A was diagnosed with serious illnesses. After her diagnosis, Taxpayer B and Decedent A met with Individual H, a senior consultant with Company G, a firm specializing in estate planning. Individual H helped Decedent A and Taxpayer B to establish a revocable trust, Trust I, under the laws of State M, and advised Decedent A to list Trust I as the 100 percent beneficiary of IRA C, which she did.

Decedent A and Taxpayer B were Co-Trustees and Co-Trustors of Trust I. Trust I provides that on the death of a Co-Trustor, the surviving spouse shall have the power to amend or revoke Trust I. Taxpayer B represents that according to the terms of Trust I and the laws of State M, Taxpayer A has full ownership and control over the assets in Trust I.

On January 15, 2015, Decedent A passed away. After the death of Decedent A, Taxpayer B met with Financial Advisor F, a consultant with Financial Institution E, the custodian for IRA C. On February 3, 2016, Financial Advisor F had Taxpayer B sign an IRA Beneficiary distribution form, which Financial Advisor F had prepared. Financial Advisor F also established a non-IRA account, Non-IRA Account D, which was held within Trust I, to receive the distributions from IRA C. On February 6, 2015, the Shares and Cash were distributed from IRA C and were deposited into Non-IRA Account D. A few days later, Financial Advisor F informed Taxpayer B that the IRA distribution was taxable. Although Taxpayer B expressed concern, Financial Advisor F and Financial Institution E failed to inform Taxpayer B that Financial Institution E allowed a rollover through a trust to the IRA of a surviving spouse.

During this time, Taxpayer B was distraught over the loss of his wife of 39 years, and he was also preoccupied with making funeral arrangements for her. On September 3, 2015, Taxpayer B learned that he could have rolled over the IRA

distribution made to Trust I into an IRA; however, the 60-day period had expired. Taxpayer B represents that the Shares and Cash have not been used for any other purpose, although some of the Shares were sold by Financial Institution E and the proceeds were credited to Non-IRA Account D.

Based on the above facts and representations, you request that the IRS waive the 60-day rollover requirement with respect to the distribution from IRA C on February 6, 2015.

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.

Under Rev. Proc. 2003-16, all of the facts and circumstances such as death and financial institution error are considered when deciding whether to grant a waiver of the 60-day rollover requirement. The information presented and documentation submitted by Taxpayer B are consistent with his assertion that the failure to accomplish a timely rollover of the distribution from IRA C was due to bad advice from Financial Advisor F of Financial Institution E and grief following the death of his spouse, Decedent A.

Assuming that Taxpayer B is authorized under Trust I and the laws of State M to complete a rollover of the distribution of Shares and Cash, 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 the Shares and Cash from IRA C on February 6, 2015. Only the specific Shares that were distributed from IRA C on such date and retained by Taxpayer B may be contributed to an IRA. Taxpayer B is granted a period of 60 days from the issuance of this letter ruling to contribute the Shares and Cash into an IRA established in his name. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the contribution will be 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.

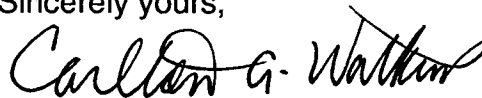
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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.

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

If you wish to inquire about this ruling, please contact
at . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:
Notice of Intention to Disclose
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Cc: