



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
AUG 01 2016

201644022

Uniform Issue List: 408.03-00

SET:EP:RA:T1

Legend:

Taxpayer A =

IRA X =

Amount B =

Bank C =

Dear

This is in response to your letter dated December 7, 2015, as supplemented by correspondence dated, June 9, 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 she received a distribution from IRA X totaling Amount B. Taxpayer A asserts that her failure to complete a rollover of Amount B, within the 60-day period prescribed by section 408(d)(3) of the Code, was due to a mental condition which impaired her ability to make adequate financial and personal decisions.

Taxpayer A's deceased husband, who passed away on June 14, 2014, helped her establish IRA X in 2006. Prior to his death Taxpayer A's husband handled their financial affairs. Taxpayer A is disabled and unable to conduct financial transactions. Taxpayer A has very limited English

language speaking and comprehension ability, and requires help from family members for transportation, legal, financial, and health matters.

On June 17, 2015, the Individual Retirement Account Certificate of Deposit, IRA X, with Bank C matured.

On June 27, 2016, Taxpayer A went to Bank C and told a representative of Bank C that she wished to renew the certificate of deposit but wanted to get a higher rate of return. The representative explained that the renewal rates were low and suggested that she should consult with other banks for better returns. IRA X was closed on June 27, 2015, and a check in Amount B, was issued to Taxpayer A. Taxpayer A, not knowing what to do with the check, put it in a kitchen drawer until a family member discovered the uncashed check in early September 2015, after the sixty day rollover period expired.

Taxpayer A submitted information from her physician attesting to her mental impairment.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount B.

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 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)(1) 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.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(1) 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 presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover was due to a mental condition which impaired her ability to make adequate financial and personal decisions.

Therefore, pursuant to section 408(d)(3)(1) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount B from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute an amount not to exceed Amount B into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, 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) 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.

If you wish to inquire about this ruling, please contact

Please address all

correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1