



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Employee Plans

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Uniform Issue List: 408.03-00

Legend

Taxpayer A =
IRA B =
Account C =

Foreign Account D =

Financial Institution E =
Financial Institution F =
Financial Institution G =

City H =
City I =
Country J =
Individual 1 =
Individual 2 =

Individual 3 =
Amount 1 =
Year 1 =
Date 1 =
Date 2 =
Date 3 =
Date 4 =

Dear:

This is in response to your request dated March 14, 2020, as supplemented by correspondence dated June 18, 2020, and July 22, 2020, 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 (the "Code").

You submitted, under penalties of perjury, the following facts and representations in support of your ruling request.

Taxpayer A represents that on Date 2, she withdrew Amount 1 from IRA B, a traditional IRA under section 408(a) of the Code that was maintained by Financial Institution E. Taxpayer A asserts that she was unable to accomplish a rollover of Amount 1 within the 60-day period prescribed by section 408(d)(3) because she was the

Country J law enforcement officials
unless she paid them Amount 1 as

On Date 1, Taxpayer A was contacted by an individual, Individual 1,
unit of City H, which is
located in Country J. After showing Taxpayer A
Taxpayer A, Individual 1 informed Taxpayer A that

Two other individuals, Individual 2,
City H, and Individual 3, who
also
claimed to be the City H
contacted Taxpayer A

Over a period of weeks, Individuals 1, 2 and 3 worked together and sent Taxpayer
in Country J for the crime of which

Taxpayer A in City H, Taxpayer A needed to wire Amount 1 to Foreign Account D, an account maintained by Financial Institution G in City I of Country J, Individuals 1, 2 and 3

Amount 1

to Country J, Taxpayer A withdrew Amount 1 from IRA B on Date 2 of Year 1. Amount 1, Account C, maintained by Financial Institution F, D on Date 3. Taxpayer A from IRA B on other dates in Year 1 to in Country J.

On Date 4, Taxpayer A contacted the City H Country J embassy. Taxpayer A then contacted the Taxpayer A City I, and she hired an attorney in City I to help recover Amount 1. However, Taxpayer A was unable to recover Amount 1 within the 60-day rollover period.

Based on the above facts and representations, Taxpayer A requests that the Internal Revenue Service (the "Service") waive the 60-day rollover requirement under section 408(d)(3) of the Code with respect to the distribution of Amount 1 from IRA B in Year 1.

Section 408(a) of the Code defines an individual retirement account 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 the rollover provisions of section 408(d)(3) do not apply to any amount 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 that was not includible in gross income because of the application of the rollover provisions in section 408(d)(3).

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d)(3) 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.

Section 3.02 of Revenue Procedure 2003-16, 2003-4 I.R.B. 359 ("Rev. Proc. 2003-16"), 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 Taxpayer A's assertion that she was unable to accomplish a rollover of Amount 1 within the 60-day period prescribed by section 408(d)(3) of the Code because she was the victim of an international fraud scheme in which individuals who falsely claimed to

be Country J law enforcement officials threatened her with extradition and imprisonment unless she paid them Amount 1 as proof of her innocence.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B on Date 2. Taxpayer A has 60 days from the issuance of this ruling to contribute an amount not to exceed Amount 1 to an IRA account. Provided all other requirements of section 408(d)(3), except the 60-day requirement, will be 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 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transactions 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 SE:T:EP:RA:T1.

Sincerely,



Adam P. Zaebst, Manager
Employee Plans Technical Group 1

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

cc: