



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

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Legend

Taxpayer A =

IRA B =

IRA C =

Financial Institution D =

Financial Institution E =

Company F =

Individual G =

Company H =

Amount 1 =

Dear :

This is in response to your letter dated December 22, 2020, as supplemented by correspondence dated March 23, 2021, May 14, 2021, and May 17, 2021, submitted on your behalf by your authorized representatives, 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 she received a distribution of shares of stock from IRA B, a traditional IRA under section 408(a) of the Code. Taxpayer A asserts that she was unable to accomplish a rollover of the shares within the 60-day period prescribed by section 408(d)(3) because she relied on Individual G, a chief financial officer, who failed to ensure that Company H shares of stock were received by Financial Institution E for deposit into IRA C within the 60 day rollover period.

Taxpayer A maintained a traditional IRA, IRA B, with Financial Institution D. Taxpayer A relied on Individual G to establish IRA B on May 3, 2011. Taxpayer A established IRA B, with the help of Individual G, for the specific purpose of investing the assets in certain shares of stock. As requested by Taxpayer A, on May 18, 2011, Financial Institution D invested the assets of IRA B in Company H shares of stock.

By letter dated May 29, 2011, Financial Institution D informed Taxpayer A that it was resigning as custodian for Taxpayer A's IRA B, and that if Taxpayer A did not find a new custodian to accept a transfer of the assets in IRA B within 30 days, Financial Institution D would distribute the assets. Taxpayer A found a custodian, Financial Institution E, which agreed to serve as custodian of an IRA and hold the Company H shares of stock. On June 20, 2011, Taxpayer A completed the paperwork to establish an IRA managed by Company F with Financial Institution E serving as the custodian. On June 28, 2011, Financial Institution D distributed the assets of IRA B.

Having successfully relied on Individual G to handle the IRA transfer to IRA B, Taxpayer A believed that Individual G was working with Financial Institution D, Financial Institution E, and Company F to ensure that the Company H shares of stock distributed from IRA B were deposited into IRA C within the 60-day rollover period. However, in a letter dated December 27, 2011, Company F advised Taxpayer A that it had tried contacting Individual G on several occasions to inform him that IRA C did not receive the Company H shares of stock.

Based on the above facts and representations, Taxpayer A requests that the Service waive the 60-day rollover requirement under section 408(d)(3) of the Code with respect to the distribution from IRA B of Company H shares of stock equal to Amount 1 that was made on June 28, 2011.

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 Internal Revenue Service (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)(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 and documentation submitted are consistent with Taxpayer A's assertion that she was unable to accomplish a rollover of the shares within the 60-day period prescribed by section 408(d)(3) of the Code because she relied on Individual G, a chief financial officer, who failed to ensure that Company H shares of stock were received by Financial Institution E for deposit into IRA C within the 60-day rollover period.

Therefore, pursuant to section 408(d)(3)(1) of the Code, the Service waives the 60-day rollover requirement with respect to the distribution made on June 28, 2019, from IRA B of Company H shares of stock equal to Amount 1. Taxpayer A has 60 days from the issuance of this ruling to contribute the Company H shares of stock equal to 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, copies of this letter ruling are being sent to your authorized representatives.

If you wish to inquire about this ruling, please contact _____ (Identification Number) at _____. Please address all correspondence to _____.

Sincerely,

Sherri M. Edelman

Sherri M. Edelman, Manager
Employee Plans Technical Group 1

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

cc: