



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

August 23, 2021

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LEGEND:

Taxpayer A =

Taxpayer B =

Roth IRA C =

Roth IRA D =

Traditional IRA E =

Traditional IRA F =

Financial Institution G =

Division H =

Investment Advisor I =

Company J =

Amount 1 =

Dear :

This is in response to your letter dated April 5, 2021, as supplemented by correspondence dated August 11, 2021, submitted on your behalf by your authorized representative in which you request a ruling under section 1.408A-5, Q&A 6 of the federal Income Tax Regulations (the "I.T. Regulations") and section 301.9100-3 of the Procedure and Administration Regulations (the "Regulations").

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

Taxpayer A and Taxpayer B, (referred to collectively as the "Taxpayers") are married and file joint returns. Taxpayer A and Taxpayer B established Traditional IRA E and Traditional IRA F, respectively, which are maintained by Financial Institution G. In and subsequent years, Taxpayer A's and Taxpayer B's gross income exceeded the modified adjusted gross income limit for making Roth IRA contributions.

In 2014, Taxpayer A met with Financial Advisor I, a senior vice president of Division H, a division of Financial Institution G, to ask about the possibility of funding a Roth IRA. Financial Advisor I explained that nondeductible contributions may be made to a traditional IRA and converted to a Roth IRA. Financial Advisor I told Taxpayer A that Financial Institution G would take the necessary steps to fund Taxpayer A's and Taxpayer B's Roth IRAs by converting contributions to their traditional IRAs.

Taxpayer A and Taxpayer B established Roth IRA C and Roth IRA D, respectively, with Financial Institution G. In and , Taxpayer A and Taxpayer B authorized Financial Institution G to make nondeductible contributions on the Taxpayers' behalf to Traditional IRA E and Traditional IRA F, and immediately convert these contributions to Roth IRA C and Roth IRA D, respectively. Taxpayer A and Taxpayer B continued authorizing the funding of their Roth IRAs, with the understanding that Financial Institution G would continue the traditional IRA contributions immediately followed by conversions to their Roth IRAs for tax years and

In , when Taxpayer A was reviewing prior years' tax returns, he discovered that while the Taxpayers' and tax returns reflected nontaxable traditional IRA distributions, their returns filed for and did not. On further inquiry, Financial Advisor I informed Taxpayer A that Financial Institution G mistakenly contributed Amount 1 directly to Roth IRA C and Roth IRA D for tax years and . Taxpayer A and Taxpayer B submitted an affidavit by a first vice president at the financial services branch of Financial Institution G, stating that contrary to Taxpayer A's instructions and company policy, they contributed Amount 1 directly to the Taxpayers' Roth IRA C and Roth IRA D for years through

Taxpayer A and Taxpayer B did not discover that the contributions were made directly to their Roth IRAs until after the deadline for making timely recharacterizations for tax years through , as prescribed in section 408A(d)(6) of the Internal Revenue

Code (the "Code"). The Internal Revenue Service (the "Service") has not independently discovered Taxpayer A's and Taxpayer B's failure to make timely recharacterizations. Taxpayer A and Taxpayer B represent that they timely filed their tax returns for years _____ and _____ Tax partners at Company J prepared Taxpayer A's and Taxpayer B's federal income tax returns for these years.

Based on the above facts and representations, Taxpayer A and Taxpayer B request a ruling that, pursuant to section 301.9100-3 of the Regulations and section 1.408A-5, Q&A 6 of the I.T. Regulations, Taxpayer A and Taxpayer B be granted an extension of time to recharacterize their Roth IRA contributions as contributions to traditional IRAs for tax years _____ through _____.

With respect to your ruling request, section 408A(d)(6) of the Code and section 1.408A-5 of the I.T. Regulations provide that, except as otherwise provided by the Secretary, a taxpayer may elect to recharacterize an IRA contribution made to one type of IRA as having originally been made to another type of IRA by making a trustee-to-trustee transfer of the IRA contribution, plus earnings, to the other type of IRA. In a recharacterization, the IRA contribution is treated as having been made to the transferee IRA and not the transferor IRA. This recharacterization election generally must occur on or before the date prescribed by law, including extensions, for filing the taxpayer's Federal income tax returns for the year of contribution.

Section 1.408A-5, Q&A-6 of the I.T. Regulations describes how a taxpayer makes the election to recharacterize the IRA contribution. To recharacterize a contribution to a Roth IRA as having been made to a traditional IRA the taxpayer must notify the Roth IRA trustee of the taxpayer's intent to recharacterize the amount; the taxpayer must provide the trustee (and the transferee trustee, if different from the transferor trustee) with specified information that is sufficient to effect the recharacterization; and the trustee must make the transfer of the contribution and net income allocable to the contribution.

Sections 301.9100-1, 301.9100-2, and 301.9100-3 of the Regulations provide guidance concerning requests for relief submitted to the Service on or after December 31, 1997. Section 301.9100-1(c) provides that the Commissioner of Internal Revenue, in the Commissioner's discretion, may grant a reasonable extension of the time fixed by a regulation, a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin for the making of an election or application for relief in respect of tax under, among others, Subtitle A of the Code.

Section 301.9100-2 of the Regulations lists certain elections for which automatic extensions of time to file are granted. Section 301.9100-3 generally provides guidance with respect to the granting of relief with respect to those elections not referenced in section 301.9100-2. The relief requested in this case is not referenced in section 301.9100-2.

Section 301.9100-3 of the Regulations provides that applications for relief that fall within

section 301.9100-3 will be granted when the taxpayer provides sufficient evidence (including affidavits and declarations described in section 301.9100-3(e)) to establish that: (1) the taxpayer acted reasonably and in good faith, and (2) granting relief would not prejudice the interests of the Government.

Section 301.9100-3(b)(1) of the Regulations provides that a taxpayer will be deemed to have acted reasonably and in good faith: (i) if its request for relief under this section is filed before the failure to make a timely election is discovered by the Service; (ii) if the taxpayer inadvertently failed to make the election because of intervening events beyond the taxpayer's control; (iii) if the taxpayer failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election; (iv) if the taxpayer reasonably relied on the written advice of the Service; or (v) if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c)(1)(i) of the Regulations provides that the interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made.

Section 301.9100-3(c)(1)(ii) of the Regulations provides that ordinarily the interests of the Government will be treated as prejudiced and that ordinarily the Service will not grant relief when tax years that would have been affected by the election had it been timely made are closed by the statute of limitations before the taxpayer's receipt of a ruling granting relief under this section.

In the present case, Taxpayer A and Taxpayer B filed this request for relief before the Service discovered their failure to make timely recharacterizations. Taxpayer A and Taxpayer B believed that Financial Institution G was funding their Roth IRAs by converting contributions made to their traditional IRAs; however, due to Financial Institution G's mistake, it made direct contributions to Roth IRA C and Roth IRA D. Taxpayer A and Taxpayer B also reasonably relied on tax professionals, tax partners at Company J, to prepare their federal income tax returns for years through which did not advise them to make the election to recharacterize. Thus, Taxpayer A and Taxpayer B satisfy section 301.9100-3(b)(1)(i), (ii), and (v) of the Regulations.

Under the set of circumstances described above, Taxpayer A and Taxpayer B satisfy the requirements of section 301.9100-3(b)(1) of the Regulations, clauses (i), (ii) and (v). In addition, the Taxpayers are not seeking relief to file amended returns for closed years and granting relief will not result in the Taxpayers having a lower tax liability in the aggregate for all taxable years affected by the election than they would have had if the election had been timely made. Thus, we find that under section 301.9100-3(c)(1) of the Regulations, granting relief will not prejudice the interests of the Government.

Accordingly, Taxpayer A is granted a period not to exceed 60 days from the date of this letter ruling to recharacterize the contributions of Amount 1 made to Roth IRA C for tax years _____ and _____ as contributions to a traditional IRA. The recharacterization must otherwise comply with section 1.408A-5 of the I.T. Regulations including the transfer of net income attributable to the contributions being recharacterized.

Taxpayer B is granted a period not to exceed 60 days from the date of this letter ruling to recharacterize the contributions of Amount 1 made to Roth IRA D for tax years _____ and _____ as contributions to a traditional IRA. The recharacterization must otherwise comply with section 1.408A-5 of the I.T. Regulations including the transfer of net income attributable to the contributions being recharacterized.

This letter assumes that the above IRAs qualify under either section 408 or section 408A of the Code at all relevant times.

This letter is directed only to the taxpayers who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Copies of this letter have been sent to your authorized representatives in accordance with your authorization on file in this office.

If you wish to inquire about this ruling, please contact _____, Badge No. _____, at _____ . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,

Sherri M. Edelman, Manager
Employee Plans Technical Group 1

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

Cc: