



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

August 9, 2022

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Number: **202244029**

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Legend

Taxpayer A =

IRA B =

Company C =

Agency D =

Agency E =

Country F =

Individual 1 =

Individual 2 =

Individual 3 =

Amount 1 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This is in response to your request dated May 5, 2022, as supplemented by correspondence dated July 26, 2022, 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. 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 victim of a fraud scheme.

On Date 1, Taxpayer A was trying to access her bank account when she received an alert on her computer to contact a representative from Company C. As instructed, she contacted Individual 1, who falsely claimed to work for Company C. Individual 1 told her that hackers from Country F had downloaded illegal material onto her computer and taken money from her bank account. Individual 1 instructed Taxpayer A to contact Individual 2. Falsely claiming to be an employee in the anti-fraud department of her bank, Individual 2 told Taxpayer A that she would have to secure her funds to protect them from the hackers and that the illegal material on her computer was a federal crime. Individual 2 also put Taxpayer A in contact with Individual 3. Individual 3 falsely claimed to be a federal officer with Agency D and assured Taxpayer A that once they secured all her assets, he would give her a check to reimburse her for withdrawals made from her accounts. Individuals 2 and 3 told Taxpayer A not to tell anyone and warned her that she would be arrested for illegal material on her computer if she contacted law enforcement.

At Individual 2's direction, Taxpayer A withdrew money from her non-IRA accounts. In addition, on Date 2, following the fraudsters' instructions, Taxpayer A withdrew Amount 1 from IRA B. On Date 3, after the 60-day rollover period for the distribution of Amount 1 from IRA B had expired, Individual 2 and Individual 3 told Taxpayer A that she could tell her spouse about the withdrawals. Taxpayer A then discovered that Individual 2's and Individual 3's phone numbers had been reassigned or were no longer in service. On Date 4, Taxpayer A contacted the local office of Agency E to report the fraud.

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 on Date 2.

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 a fraud scheme.

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 letter to contribute an amount not to exceed Amount 1 into an IRA. 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 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 _____ (Identification
Number _____ at _____ . Please address all correspondence to

Sincerely,

_____, Acting Manager
Employee Plans Technical Group

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

cc: