



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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LEGEND:

Taxpayer A =

IRA B =

Bank C =

Agency D =

Agency E =

Agency F =

Agency G =

City H =

City I =

Individual 1 =

Individual 2 =

Individual 3 =

Individual 4 =

Individual 5 =

Amount 1 =

Amount 2 =

Amount 3 =

Amount 4 =

Amount 5 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Year 1 =

Dear

This is in response to your request dated December 26, 2023, as supplemented by correspondence dated February 22, 2024, and March 18, 2024, 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").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested

Taxpayer A represents that on **Date 2** she received a distribution from **IRA B** totaling **Amount 1**. **Taxpayer A** asserts that her failure to accomplish a rollover of **Amount 1** within the 60-day period prescribed by section 408(d)(3) was because she was the victim of a fraud scheme.

On **Date 1**, **Taxpayer A** received a phone call from a man who identified himself as **Individual 1** falsely claiming to be from the **Agency D** and told her that she was identified as a victim of identity theft. She was also told by **Individual 2**, a man impersonating as a senior investigating officer of the **Agency E**, that her name, social security number, and address were found inside an abandoned car during a drug and money laundering operation. **Individual 2** told **Taxpayer A** that he was working with the **Agency D** to protect victims of fraud and that was the reason for their phone call. **Individual 1** was able to provide **Taxpayer A** with her full name, home address and correct social security number, as well as some other personal information, leading **Taxpayer A** to believe the situation was legitimate.

To secure her funds, **Taxpayer A** was told she had to transfer the balance of **IRA B** to a safety locker facility. Once the funds were secured, a person posing as an agent of **Agency F**, **Individual 3**, would come to her house to deliver a check in the amount transferred to the safety locker. She was told that she would have a lockbox that only she can open with a combination she was given. And a check for the funds she transferred from **IRA B** would be in the box.

On **Date 3**, the transfer of **Amount 1** from **IRA B** to **Bank C** was completed.

For the next few days, on **Dates 3, 4, 5 and 6**, **Taxpayer A** was on the phone with **Individual 1**. He provided her bank names, routing, and account numbers to transfer funds to. He told her never to exceed an **Amount 2** transfer as it may look suspicious to the banks. **Taxpayer A** visited multiple **Bank C** locations and made ten wire transfers transactions. Per **Individual 1's** instructions, **Taxpayer A** made four transfers of **Amount 3**; five transfers of **Amount 4** and one transfer of **Amount 5**.

After a few transfers were made, **Taxpayer A** began to doubt the operation's legitimacy. She questioned **Individual 1**, and he reassured her by having the Chief of Police of **City H**, **Individual 4** call and let her know the operation was genuine.

Unfortunately, it was too late before **Taxpayer A** realized that she had been defrauded. She called the **City I** police department on **Date 7** and spoke to **Individual 5**, who came to her house and took a police report. **Taxpayer A** also reported the crime to the **Agency G**. Sometime in Year 1, the **Agency G** called **Taxpayer A** to inform her that the mastermind behind the theft operation had been arrested and was now serving his sentence.

Based on the above facts and representations, **Taxpayer A** requests that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of **Amount 1** from **IRA B** on **Date 2**.

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 the rollover provisions of section 408(d)(3) do 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 that 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)(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) 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. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Section 3.02 of 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)(I), 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 caused by her being a victim of a fraud scheme.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of **Amount 1** from **IRA B**. **Taxpayer A** is granted a period of 60 days from the issuance of this ruling letter to contribute **Amount 1** 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 **Amount 1** 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 401(a)(9) 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.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact at .

Sincerely yours,

Frederick L. Parker, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted copy of this letter

Letter 437, Notice of Intention to Disclose

CC: