



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200840057

DEC 22 2006

Uniform Issue List: 408.03-00

T:EP:RA:TB

Legend:

Taxpayer A =

Amount A =

Amount B =

Amount C =

Dear:

This is in response to your request submitted on your behalf by your authorized representative dated May 29, 2006, and as supplemented on November 13, 2006, 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, age 67, represents that he received distributions totaling Amount C from his two individual retirement accounts ("IRAs"). Taxpayer A asserts that his failure to accomplish rollovers within the 60-day period prescribed by Code section 408(d)(3) was due to the effects of a medical condition and a lack of knowledge about the 60-day rollover requirement.

The documentation submitted shows that Taxpayer A suffered a heart attack/stroke on April 1, 2005, and another heart attack/ stroke on May 13, 2005. In July 2005, Taxpayer A, believing he was facing high medical bills, withdrew Amount A from one of his IRAs and Amount B from the second of his IRAs. Amounts A and B total Amount C.

Taxpayer A discovered in early October 2005 that most of his medical bills would be covered by insurance. Taxpayer A has represented that he did not know that he had the option of rolling over the funds distributed from his IRAs in July, 2005

back into the same or other IRAs until he visited a tax site sponsored by American Association of Retired Persons ("AARP") on or about April 6, 2006.

Documentation submitted by Taxpayer A to the Internal Revenue Service from medical practitioners has indicated some unspecified degree of mental impairment as a result of his stroke in May 2005 and great improvement in his medical condition during October, 2005.

Based on the facts and representations, you request a ruling 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(s) of Amounts A and B.

With respect to your ruling request, 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 section 408(d)(3) does 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 which 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) 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 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.

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 indicates that Taxpayer A decided to withdraw IRA funds in July 2005 to cover his potential medical expenses and that several months later, after the expiration of the 60-day rollover periods applicable to both of his IRA distributions, he discovered that insurance would cover his medical expenses. Additionally, Taxpayer A did not know of his option of rolling over the distributed funds back into his IRAs until he visited a tax site sponsored by AARP in April, 2006.

The facts of this case indicate that Taxpayer A did not intend to roll over either of his July, 2005 distributions when he received them, but rather intended to use them to cover personal medical expenses. After the expiration of the relevant 60-day rollover periods, he was advised that the funds were not required to cover his medical expenses. Several additional months passed prior to Taxpayer A's becoming aware that his IRA distributions could be rolled over into the same or new IRAs.

Based on the facts of this case, we do not believe that Taxpayer A has presented sufficient documentation to conclude that any of the factors outlined in Rev. Proc. 2003-16 affected his ability to timely roll over Amount A. Thus, the Service will not grant to Taxpayer A any extension to the 60-day rollover period of Code section 408(d)(3)(A) applicable to either the distribution of Amount A or the distribution of Amount B.

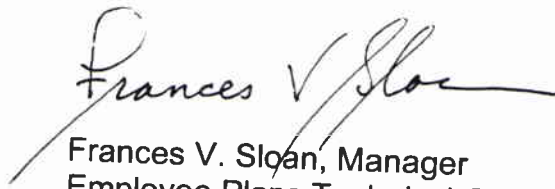
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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 _____, I.D. # _____, at (_____) _____. Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,



Frances V. Sloan, Manager
Employee Plans Technical Group 3

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