



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

201451066

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

SEP 25 2014

Uniform Issue List: 408.00-00

T:EP:RA:T3

Legend:

Taxpayer =

Amount M =

Amount N =

Plan =

Decedent =

Company =

Life Insurance Company =

IRA =

Annuity =

Court =

Dear

This is in response to your letter dated December 11, 2012, as supplemented by your letter dated December 30, 2013, concerning a distribution from an annuity purchased by your deceased husband, in which you are the named beneficiary, and the proper rollover treatment of the distribution from the annuity under 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.

Decedent maintained IRA. Taxpayer asserts that Decedent's estate received Amount M from IRA. Taxpayer asserts that the failure to complete a rollover of Amount M within the 60-day period prescribed by section 408(d)(3) of the Code was due to Decedent's death. Taxpayer further represents that Amount M has not been used for any other purpose.

Decedent was married to Taxpayer at the time of his death on September 24, 2012. Decedent was employed by Company, the sponsor of Plan. On July 17, 2012, Decedent elected to roll over his lump sum distribution from Plan into IRA. Decedent named Taxpayer as the primary beneficiary. On September 5, 2012, IRA was issued by Life Insurance Company. Life Insurance Company cancelled IRA on October 29, 2012, after learning Decedent had died and issued a check payable to the Estate of Decedent. Taxpayer received a letter of appointment of personal representative of the Estate of Decedent on November 13, 2012, from Court.

On November 19, 2012, Taxpayer purchased Annuity with Amount N, after using part of Amount M for funeral expenses, with the intent to complete the rollover of Amount N. Life Insurance Company informed Taxpayer that a ruling letter from the Internal Revenue Service granting a waiver of the 60-day rollover period would be required.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount N from IRA.

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 60<sup>th</sup> 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 60<sup>th</sup> 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)(C)(i) of the Code provides, in summary, that the rollover rules of section 408(d)(3) do not apply to inherited IRAs.

Section 408(d)(3)(C)(ii) of the Code provides that the term "inherited IRA" means an IRA obtained by an individual, other than the IRA owner's spouse, as a result of the death of the IRA owner.

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 is consistent with her assertion that the failure to accomplish a timely rollover was due to the death of Decedent.

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 N. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount N into an IRA or other eligible retirement plan. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount N 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.

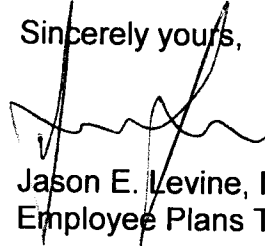
This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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If you have any questions, please contact  
Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jason E. Levine". The signature is stylized with a large, sweeping initial "J" and "L".

Jason E. Levine, Manager  
Employee Plans Technical Group 2

Enclosures:

Deleted Copy of Ruling Letter  
Notice of Intention to Disclose