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

201532038

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUN 11 2015

Uniform Issue List: 408.03-00

SE:T:EP:RA:T2

Legend:

Taxpayer A =

IRA X =

IRA Y =

Individual B =

Amount A =

Financial Institution A =

Financial Institution B =

Dear :

This is in response to your request, dated May 10 2014, as supplemented by correspondence dated August 12, 2014 and October 26, 2014, in which your authorized representative, on your behalf, requested a waiver of the 60-day 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 she received a distribution, on February 27, 2013, from IRA X of Amount A. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to an error by Financial Institution A. Taxpayer A further asserts that Amount A has not been used for any other purpose.

Taxpayer A's husband, who had always handled the couple's financial affairs, died in September 2011. With a view towards consolidating her taxable and nontaxable accounts at a single financial institution, Taxpayer A met on February 6, 2013 with Individual B, an investment adviser at Financial Institution A. Taxpayer A submitted documentation to us from her meeting with Individual B. Among the topics discussed at the meeting and referred to in the documentation was the objective to "Consolidate IRAs and old 401(k) into one IRA." Taxpayer A established a rollover IRA, IRA Y, at Financial Institution A and on March 7, 2013, Taxpayer A's interest in the 401(k) plan referred to in the documentation above, was rolled over to IRA Y.

The distribution of Amount A from IRA X was first deposited to Taxpayer A's checking account at Financial Institution B. On March 15, 2013, Taxpayer A wrote one check to Financial Institution A which included the distribution of Amount A from IRA X, as well as amounts from her taxable accounts. Based on the February 6th meeting with Individual B, it was Taxpayer A's understanding that the distribution of Amount A from IRA X would be deposited in IRA Y immediately upon receipt by Financial Institution A.

It was not until Taxpayer A's 2013 tax return was being prepared that her accountant noticed that IRA X had not been properly rolled over. At that time it was beyond the 60-day rollover period.

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) with respect to the distribution of Amount.

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)(d)(3)(E) of the Code provides that the rollover provisions of 408(d) do not apply to any amount required to be distributed under section 401(a)(9) of the Code.

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.

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 Taxpayer A's assertion that her failure to accomplish a timely rollover was due to an error by Individual B of Financial Institution A.

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 A from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount A, 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, the amount transferred (up to Amount A) 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.

Pursuant to a power of attorney on file with this office, a copy of this ruling is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact *******. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,

Sherri M. Edelman, Manager,
Employee Plans Technical Group 2

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

cc: