



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201618017

FEB 1 2016

SE:T:EP:RA:T3

U.I.L. 408.03-00

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Legend:

Taxpayer A = XXXXXXXXXXXX

IRA X = XXXXXXXXXXXX

Financial Institution B = XXXXXXXXXXXX

Company C = XXXXXXXXXXXX

Plan Y = XXXXXXXXXXXX

Company E = XXXXXXXXXXXX

Amount D = XXXXXXXXXXXX

Dear xxxxxxxx:

This letter is in response to your request submitted by your authorized representative, dated March 18, 2015 and supplemented by correspondence dated July 22, 2015, 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 asserts that her failure to accomplish a rollover of Amount D within the 60-day period prescribed by section 408(d)(3) of the Code was due to the complicated and time-consuming policies and procedures of Financial Institution B and Company C.

Taxpayer A participates in Plan Y with Financial Institution B as the custodian. Taxpayer A requested a distribution of Amount D from IRA X for the purpose of rolling over Amount D into Plan Y. On October 28, 2014, Taxpayer A received two checks totaling Amount D, which she forwarded to Financial Institution B for a rollover into Plan Y. However, Financial Institution B returned the checks to her on December 5, 2015. Taxpayer A was informed by Financial Institution B that the checks, which were payable to her, should be reissued in the name of Plan Y FBO Taxpayer A. However, Company C required lengthy and complicated procedures in order to reissue the checks, which were not clearly outlined to Taxpayer A. Despite Taxpayer A's diligence in attempting a timely rollover, Amount D failed to be deposited into her account with Plan Y within the 60-day rollover period. To date, Taxpayer has not cashed the checks.

Based on the foregoing facts and representations, you request that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amount D.

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 received 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 included 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, 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 and documentation submitted by Taxpayer A support her assertion that the failure to complete her attempted rollover of Amount D within the 60-day period prescribed by section 408(d)(3) of the Code was due to the complicated and time-consuming policies and procedures of Financial Institution B and Company C.

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 D from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this letter to contribute Amount D into Plan Y. Provided all other requirements of Code section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the contribution of Amount D 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 408(a)(6) 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 is being sent to your authorized representative pursuant to a Power of Attorney on file with this office.

If you have any questions concerning this ruling, please contact xxxxxxxxxxxxxx, xxxxxxxxxxxxxxxxxxxx, SE:T EP RA:T:3, at xxxxxxxxxxxxxxxxxxxx.

Sincerely yours,



*Ada Perry*  
Carolyn E. Zimmerman, Acting Manager  
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling  
Notice of Intention to Disclose

cc:

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