



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201625025

MAR 22 2016

SE:T:EP:RA:A2

Legend:

- Taxpayer A =
- IRA X =
- IRA B =
- Amount 1 = \$
- Date 1 =
- Date 2 =

Dear :

This is in response to Taxpayer A's request dated January 20, 2014, as supplemented by correspondence dated August 12, 2014, and October 12, 2014, submitted on her behalf by her authorized representative, in which she requested 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 she withdrew Amount 1 from IRA A. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to her medical condition and treatments for such condition which impaired her ability to accomplish a timely rollover. Taxpayer A further represents that Amount 1 has not been used for any purpose.

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Taxpayer A withdrew Amount 1 from IRA X, with the intent to research various types of mutual funds, and roll Amount 1 into a new IRA within 60 days of the withdrawal. Eleven days after the withdrawal from IRA X, Taxpayer A was diagnosed with cancer. Shortly after the diagnoses, Taxpayer A underwent surgery and subsequently underwent chemotherapy during her rollover period. The side effects of chemotherapy further affected her ability to complete the rollover within 60 days. Taxpayer A deposited Amount 1 into IRA B on Date 2.

Based on the facts and representations, Taxpayer A requested 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 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, 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) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code 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) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

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Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) of the Code do not apply to any amount required to be distributed under section 408(a)(6) 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. 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) of the Code, 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 the documentation submitted by Taxpayer A's authorized representative are consistent with her assertion that her failure to accomplish a timely rollover was caused by medical condition, hospitalization, and treatments for such condition which impaired her ability to accomplish a timely rollover.

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 X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to Taxpayer A's deposit of Amount 1 into IRA B on Date 2, such deposit 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 in this ruling under the provisions of any other section of either the Code or regulations which may be applicable.

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 letter is being sent to your authorized representative.

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If you wish to inquire about this ruling, please contact (ID # )  
at ( ) - . Please address all correspondence to SE:T:EP:RA:T:A2.

Sincerely yours,

David M. Ziegler, Manager  
Employee Plans Actuarial Group 2

**Enclosures:**

Deleted copy of ruling letter  
Notice of Intention to Disclose

cc: