



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

MAY 25 2016

201634026

Uniform Issue List: 408.03-00

SE:T:EP:RA:TI

Legend

Decedent A =

Executrix B =

IRA C =

Non-IRA Account D =

Financial Institution E =

Financial Institution F =

Individual G =

Individual H =

State M =

Amount 1 =

Dear :

This is in response to your request dated January 22, 2016, from your authorized representative, 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.

Executrix B represents that Decedent A received a distribution equal to Amount 1 from IRA C. Executor B asserts that Decedent A's failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to Decedent A's severe cognitive impairment and subsequent death during the 60-day period.

Decedent A owned several IRAs which were maintained by Financial Institution E. On August 20, 2015, Decedent A's IRAs were consolidated through trustee-to-trustee transfers to a single IRA, IRA C, with Financial Institution E. Decedent A's three children, Executrix B, Individual G, and Individual H, were the designated beneficiaries of IRA C. On August 26, 2015, Decedent A received a lump sum distribution of Amount 1 from IRA C. On September 4, 2015, Amount 1 was placed in Decedent A's non-IRA bank account, Non-IRA Account D, maintained by Financial Institution F.

In July of 2015, Decedent A had been diagnosed with a serious terminal illness that caused severe cognitive impairment. On August 7, 2015, Decedent A was hospitalized, and on August 13, 2015, he began receiving treatments for his illness. Over the next few weeks, Decedent A's physical condition worsened and on September 5, 2015, Decedent A died. Documentation submitted by Decedent A's physician states that Decedent A's "decision making was severely impaired by extensive brain disease"

Executrix B represents that Amount 1 has not been used for any other purpose.

Based on the above facts and representations, you request a waiver of the 60-rollover requirement under 408(d)(3) of the Code to allow Executrix B to roll over Amount 1 into an IRA in the name of Decedent A.

Section 408(a) of the Code defines an IRA to mean a trust created or organized in the United States, and requires that the trustee be a bank or an approved non-bank trustee.

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.

Section 408(d)(3) of the Code provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) 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 or 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 of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) 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, provides that the Service will issue a ruling waiving the 60-day rollover requirement in cases 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 taxpayer. 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.

Under Rev. Proc. 2003-16, death is one of the circumstances that the Service will consider when deciding whether to grant a waiver of the 60-day rollover requirement. The information presented and documentation submitted by Executrix B are consistent with her assertion that the failure to accomplish a timely rollover of the distribution from IRA C was caused by Decedent A's severe cognitive impairment and death during the 60-day period.

Assuming that Executrix B is authorized under the laws of State M to complete a rollover of the distribution of Amount 1, 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 C. Executrix B is granted a period of 60 days from the issuance of this letter ruling to contribute an amount not more than Amount 1 into one or more IRAs in the name of Decedent A. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3).

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 has been sent to your authorized representative in accordance with a power of attorney on file with this office.

201634026

If you wish to inquire about this ruling, please contact
Please address all correspondence to

at

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

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

Cc: