



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

201645023

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 8 2016

U.I.L. 408.03-00

SE: T: EP: RA: T2

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Legend:

- Decedent A = XXXXXXXXXXXXX
- Taxpayer B = XXXXXXXXXXXXX
- IRA X = XXXXXXXXXXXXX
- Bank C = XXXXXXXXXXXXX
- Amount D = XXXXXXXXXXXXX
- Date 1 = XXXXXXXXXXXXX
- Date 2 = XXXXXXXXXXXXX
- Date 3 = XXXXXXXXXXXXX
- Date 4 = XXXXXXXXXXXXX
- Date 5 = XXXXXXXXXXXXX

Dear XXXXXXXXXXXX:

This is in response to your letter dated September 9, 2015, as supplemented by correspondence dated February 24, 2016, July 7, 2016, and July 27, 2016, submitted on your behalf by 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 (Code).

The following facts and representations have been submitted under penalty of perjury in support of your request.

On Date 1, Decedent A received a distribution from IRA X totaling Amount D. Taxpayer B, executrix of Decedent A's estate, asserts that Decedent A's failure to accomplish a timely rollover was due to his medical condition and hospitalization during the 60-day rollover period.

Decedent A had IRA X invested in a Certificate of Deposit (CD) with Bank C. On Date 1, when the certificate of deposit matured, Decedent A received a distribution of Amount D from IRA X. Amount D was deposited into his joint checking account with Taxpayer B. Amount D has not been used for any other purpose.

Decedent A's wife, Taxpayer B, also had a CD IRA with Bank C and, on Date 1, received a distribution from her IRA which was deposited into their joint checking account.

Decedent A had medical conditions, and had been in and out of the hospital and rehabilitation centers for the past few years. On Date 2, Decedent A was again admitted to the hospital for two weeks, after which, he was moved to an acute rehabilitation center for another two weeks and went home on Friday, Date 3. On the same day, on Date 3, Taxpayer B went to Bank C to rollover the distributions from her IRA and Amount D from IRA X on behalf of Decedent A. A representative of Bank C told Taxpayer B that Decedent A had to be present in person to sign the appropriate paperwork in order to rollover his IRA funds. At this point, Taxpayer B told Bank C that she would bring Decedent A to Bank C on the following, Monday, Date 4, so they could both rollover the IRA funds. Unfortunately, on Date 4, still within the 60-day rollover period, Decedent A went back into the hospital where he passed away on Date 5.

Based on the facts and representations, Taxpayer B, the executrix of Decedent A's estate, requests that the Internal Revenue Service (Service) waive the 60-day rollover requirement with respect to the distribution of 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 60th 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 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 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 and good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occur 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, or 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 B is consistent with her assertion that Decedent A's failure to accomplish a timely rollover was due to his medical condition and hospitalization during the 60-day rollover period.

Therefore, pursuant to section 408(d)(3)(1), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount D from IRA X. Taxpayer B is granted a period of 60 days from the issuance of the ruling letter to contribute an amount not to exceed Amount D into a rollover IRA in the name of Taxpayer B. 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 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 that 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 regarding this letter, please contact xxxxxxxxxxx, # xxxxxxxx, at xxxxxxxxxxx. All correspondence should be addressed to SE:T:EP: RA:T:2.

Sincerely yours,



Sherri M. Edelman, Manager
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose

cc:

xxxxxxxxxxxx