



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

201650022

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

SEP 19 2016

U.I.L. 408.03-00

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XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

SE:T:EP:RA:T2

Legend:

- Taxpayer A = XXXXXXXXXXXX
- Taxpayer B = XXXXXXXXXXXX
- IRA X = XXXXXXXXXXXX
- IRA Y = XXXXXXXXXXXX
- Non-IRA Account C = XXXXXXXXXXXX
- Financial Institution D = XXXXXXXXXXXX
- Bank E = XXXXXXXXXXXX
- Amount 1 = XXXXXXXXXXXX
- Amount 2 = XXXXXXXXXXXX

Dear XXXXXXXXXXXX:

This is in response to your letter dated January 13, 2016, as supplemented by correspondence dated June 10, 2016, 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 November 10, 2015, Taxpayer A and Taxpayer B received distributions from IRA X and IRA Y, respectively. Taxpayer A and Taxpayer B assert that their failure to accomplish the rollovers within the 60-day period under section 408(d)(3) of the Code was due to their mistaken belief that they had 90 days from the date of the distributions to rollover Amount 1 and Amount 2 into IRAs.

Taxpayer A and Taxpayer B owned IRA X and IRA Y, respectively, which were maintained by Financial Institution D. On November 10, 2015, Taxpayer A received a distribution of Amount 1 from IRA X and Taxpayer B received a distribution of Amount 2 from IRA Y. On December 8, 2015, a date within the 60-day period, Taxpayer A and Taxpayer B deposited Amounts 1 and 2 into a non-IRA account, Non-IRA Account C, which was maintained by Bank E. Amounts 1 and 2 have remained in Non-IRA Account C.

Based on the facts and representations, Taxpayer A and Taxpayer B request that the Internal Revenue Service (Service) waive the 60 day rollover requirement with respect to the distribution of Amount 1 from IRA X and Amount 2 from IRA Y.

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 Taxpayers A and B supports their assertion that their failure to complete a rollover was due to their mistaken belief that they had 90 days from the date of distribution to rollover Amounts 1 and 2 into an IRA.

Therefore, pursuant to Code 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. and Amount 2 from IRA Y. Taxpayers A and B are granted a period of 60 days from the issuance of this ruling letter to contribute Amounts 1 and 2 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 contribution 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.

If you have any questions regarding this letter, please contact xxxxxxxxxxxxxxxx, at xxxxxxxxxxxxxxxx. 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