



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

July 11, 2024

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LEGEND:

Taxpayer A =

IRA A =

Bank A =

Bank B =

Credit Union C =

Company A =

Company B =

Company C =

Agency A =

Agency B =

State A =

Individual 1 =

Individual 2 =

Individual 3 =

Amount 1 =

Amount 2 =

Amount 3 =

Amount 4 =

Amount 5 =

Amount 6 =

Amount 7 =

Amount 8 =

Amount 9 =

Date 1 =
 Date 2 =
 Date 3 =
 Date 4 =
 Date 5 =
 Date 6 =
 Date 7 =
 Date 8 =
 Date 9 =
 Date 10 =
 Date 11 =

Dear:

This is in response to your request received in this office on February 29, 2024, and supplemental correspondence dated June 4, 2024, 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 represents that on Date 2 she withdrew Amount 1 from IRA A, a traditional IRA under section 408(a) of the Code. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was because she was the victim of a fraud scheme.

Taxpayer A further represents that on Date 1 she received an alert on her laptop computer and called what she thought was Company A. Taxpayer A spoke with Individual 1 who falsely claimed to be a representative of Company A. Individual 1 ran a scan on her computer and told her that she had paid Amount 2 to Company B for explicit material, which was not true. Individual 1 transferred Taxpayer A to Individual 2 who falsely claimed to be with Bank A and Individual 3 who falsely claimed to be with Agency A. Taxpayer A was told that her identify had been stolen and unless she secured Amount 3, she would be prosecuted or have her money tied up while Individual 3 processed her case. Taxpayer A, on Date 2 as directed by Individual 3, withdrew Amount 1 from IRA A and deposited Amount 1 into her account with Bank A. On Date 3 Taxpayer A wired Amount 4 to Company C to purchase cryptocurrency. On Dates 4 and 5, Taxpayer A withdrew a total of Amount 5 from Bank A and mailed Amount 5 to a mailbox address in State A. The scammers also coerced Taxpayer A to open new accounts at Bank B and Credit Union C. On Date 6, Taxpayer A deposited Amount 6 into an account with Bank B and deposited Amount 7 into an account with Credit Union C.

Taxpayer A realized on Date 7 that she was the victim of a scam and filed reports with various agencies, including Agency B. With the help of Agency B, Taxpayer A was

able to have Amount 8 transferred from Company C to Credit Union C on Date 10. On Date 8, Taxpayer A transferred Amount 6 from Bank B into IRA A. On Date 9, Taxpayer A transferred Amount 7 from Credit Union C into IRA A. On Date 11, Taxpayer A transferred Amount 4 from Credit Union C into IRA A. Thus, a total of Amount 9 was recontributed into IRA A

Based on the above facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1 from IRA A on Date 2.

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 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 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.

Section 3.02 of Revenue Procedure. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) 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 presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover was caused by her being a victim of a fraud scheme.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the contribution of Amount 9 into IRA A and Amount 9 will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code. In addition, Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 5 into an 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, Amount 5 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 401(a)(9) 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.

If you wish to inquire about this ruling, please contact _____, badge number _____, at _____.

Sincerely,

Frederick L. Parker, Manager,
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose