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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

AUG 02 2012

Uniform Issue List: 408.03-00

T! EP. RA. T2

Legend:

Taxpayer A:

IRA X:

IRA Y:

Court Order Y:

Amount L:

Amount M:

Amount P:

Dr. L:

Dr. M:

Mental Impairment A:

Mental Impairment B:

Mental Impairment C:

Money Market Account Y:

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Dear

This is in response to a letter dated May 26, 2011, supplemented by letters dated August 8, 2011, August 16, 2011, November 23, 2011, and July 12, 2012, submitted by you and your authorized representative on your behalf, 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 the ruling requested.

Taxpayer A maintained an Individual Retirement Account (IRA), IRA Y. Taxpayer A asserts that in 2010, she received a distribution of Amount M from IRA Y. Taxpayer A's failure to complete a rollover of Amount P, a portion of Amount M, within the 60-day period prescribed by section 408(d)(3) of the Code was due to a worsening of her existing mental condition which impaired her ability to make sound financial decisions.

Taxpayer A has been treated by Dr. M for psychotherapy as a result of Taxpayer A's suicidal tendencies. Dr. M provided documentation on July 12, 2012, which shows that beginning in 1991, Taxpayer A began to experience the early stages of Mental Impairment A. Taxpayer A experienced recurring episodes of Mental Impairment A in year 2003, and the period 2006 through 2009. In April 2009, for the first time, Taxpayer A began suffering from irrational behavior due to the sudden onset of Mental Impairment B. Dr. M documented that from 2006 through 2011, Taxpayer A was mentally unstable, suicidal, and was unable to make sound financial decisions. Dr. M also documented the medication regimens that failed to alleviate Taxpayer A's irrationality.

During the Mental Impairment B phase, on May 13, 2010, in a divorce settlement, Court Order Y, awarded Amount L to Taxpayer A which represents half of her former husband's retirement funds consisting of IRA X and a section 401(k) plan.

Pursuant to Court Order Y, on May 6, 2010, Taxpayer A's former husband, ordered that Custodian F transfer Amount L from IRA X to IRA Y.

On May 13, 2010, after the Amount L transfer, Taxpayer A withdrew Amount M (66 % of Amount L) from IRA Y because she thought in her mentally impaired state she needed to spend money on certain purchases.

Taxpayer A requests a waiver of the 60-day rollover period to allow Taxpayer to rollover Amount P to an IRA.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (Service) waive the 60-day rollover requirement with respect to the distribution of Amount P 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 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)).

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.

Rev. Proc. 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 of Amount P was due to a worsening of her mental condition which impaired her ability to make sound financial decisions.

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 P from IRA Y. Pursuant to this ruling letter, Taxpayer A is granted a period of 60 days from the date of the issuance of this letter ruling to make a rollover contribution of Amount P to a rollover IRA. Provided all other requirements of Code section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, Amount P will be considered a valid 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.

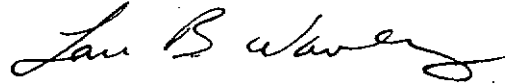
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

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 have any questions, please contact

Sincerely yours,



Laura B. Warshawsky, Manager  
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of Ruling Letter  
Notice of Intention to Disclose

cc: