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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

201338057

JUN 26 2013

T:EP:RA:T1

Uniform Issue List: 408.03-00

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XXXXXXXXXXXXXXX

Legend:

Taxpayer A	= XXXXXXXXXXXXXXXXX
Decedent B	= XXXXXXXXXXXXXXXXX
Individual C	= XXXXXXXXXXXXXXXXX
IRA D	= XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXX
Company E	= XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Financial Institution F	= XXXXXXXXXXXXXXXXXXXXXXXXXXX
Company G	= XXXXXXXXXXXXXXXXXXXXXXXXXXX
Amount 1	= XXXXXXXXX

Dear XXXXXXXXXX:

This is in response to your request dated August 13, 2012, as supplemented by correspondence dated February 15, 2013, and April 25, 2013, 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

Taxpayer A represents that she received a distribution totaling Amount 1 from IRA D, which was maintained by Company E. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to a mistake made by Financial Institution F that directed deposit of Amount 1 into a non-IRA annuity rather than a rollover IRA annuity. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A was the beneficiary of IRA D set up with Company E by her husband, Decedent B. Decedent B died on July 29, 20 . Soon after Decedent B's death, Taxpayer A was contacted by Company E with her options as spousal beneficiary of IRA D. Taxpayer A sought the help of a family friend who recommended an individual at Financial Institution F. Taxpayer A contacted Individual C, President/CEO of Financial Institution F, who recommended a tax-free transfer to a rollover IRA annuity with Company G. Taxpayer A authorized distribution from IRA D, but Financial Institution F prepared transfer forms which erroneously provided for transfer of Amount 1 to a non-IRA annuity instead of a rollover IRA annuity. On September 18, 20 , Amount 1 was distributed from IRA D and a non-IRA annuity was purchased from Company G on September 28, 20 . Taxpayer A did not discover the error until she received a tax notice from the Internal Revenue Service dated May 2, 20 . Documentation submitted includes a statement from Individual C admitting Financial Institution F's error in completing the transfer forms. Amount 1 continues to be held in an annuity at Company G.

Based on the 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 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 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.

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 are consistent with her assertion that her failure to accomplish a timely rollover was caused by Financial Institution F's mistake in preparing transfer forms for a taxable annuity instead of the tax-free rollover IRA annuity intended by Taxpayer A.

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 1 from IRA D. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 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, Amount 1 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.

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

If you wish to inquire about this ruling, please contact XXXXXXXXXXX XXXXX (ID XXXXXXXXXX) at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,

Carlton A. Watkins

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

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

cc: XXXXXXXXXXXXXXXXXXX
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