201437027

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUN 18 2014

Uniform Issue List: 408.03-00

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Legend:

Taxpayer A	=	***
IRA X	=	***
IRA Y	=	***
Amount A	=	***
Financial Institution F	=	***.

Dear ***:

This is in response to your request dated December 29, 2012, as supplemented by correspondence dated November 1, 2013, November 4, 2013, and March 12, 2014, in which you requested a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

Taxpayer A represents that she received a distribution from IRA X totaling Amount A. Taxpayer A asserts that her failure to accomplish a rollover of Amount A within the 60-day period prescribed by section 408(d)(3) of the Code was due to financial institution error. Taxpayer A further represents that Amount A has not been used for any other purpose.

The following facts and representations have been submitted under penalties of perjury in support of the ruling requested:

On August 4, 2011, Taxpayer A visited Financial Institution F to inquire about rolling over the balance of IRA X into another IRA. Taxpayer A asked how long she would have to accomplish the transfer in order to avoid having to include the amount in taxable income. The Taxpayer represents that the employee of Financial Institution F informed her that she would have up to two years to transfer the distribution into another IRA.

Based on this advice, Taxpayer A took a distribution of Amount A from IRA X and left Amount A on deposit in a non-IRA account at Financial Institution F with the intention of rolling over Amount A later. Taxpayer A represents that she had no intent to use Amount A for any purpose other than to rollover to another IRA.

Taxpayer A did not discuss this transaction with any other person until January, 2012 when she informed her spouse. Taxpayer A's spouse informed her that the two-year period to accomplish a rollover cited by the Financial Institution F representative was likely incorrect.

Thereafter, Taxpayer A attempted to deposit Amount A into another IRA at Financial Institution F. Because the 60-day period had expired, Financial Institution F would not permit a rollover of Amount A. However, Financial Institution F permitted Taxpayer A to contribute $12,000 into a Roth IRA, the maximum contribution allowable for the 2011 and 2012 calendar years.

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

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, 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^{th} 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^{th} 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) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code 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) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

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) of the Code do not apply to any amount required to be distributed under section 408(a)(6) of the Code.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) of the Code 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) of the Code, 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 the incorrect advice she received from Financial Institution F regarding the permissible period of time to accomplish the rollover of Amount A into another IRA.

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 A from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount A into IRA Y, a traditional IRA set up for the purpose of receiving the rollover from IRA X. 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 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 *** (ID# ***) at (***)***. Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,

Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose