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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 21 2014

Uniform Issue List: 408.03-00

SE:T:EP:RA:T1

Legend:

Taxpayer A	=	
IRA B	=	
Financial Institution C	=	
Organization D	=	
IRA E	=	
Financial Institution F	=	
Account G	=	
Financial Institution H	=	
IRA I	=	
IRA J	=	
Financial Institution K	=	
Amount 1	=	
Amount 2	=	
Amount 3	=	

Dear :

This letter is in response to a request for a letter ruling dated March 12, 2014, as supplemented by correspondences dated May 13, 27, and June 16, 18, 19 and 20, 2014, submitted on your behalf by 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 ("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 of Amount 1 from IRA B. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to the combined effect of her and her husband's medical conditions and related issues which impaired her ability to manage her financial affairs. From Amount 1, Taxpayer A has taken required minimum distributions pursuant to Code section 408(a)(6). Taxpayer A further represents that the remainder of Amount 1 has not been used for any other purpose.

Taxpayer A maintained IRA B, an individual retirement account (IRA) under section 408(a) of the Code, with Financial Institution C. In 2009, Financial Institution C was experiencing financial problems and was taken over by Organization D. Eventually, Financial Institution C failed and was acquired by Financial Institution F. Coinciding with this transaction, Taxpayer A's account balance in IRA B was transferred to IRA E with Financial Institution F. This Financial Institution was located 46 miles from Taxpayer A's home. Acting on the combined concern over the financial security of Financial Institution F, its location and her husband's failing health, Taxpayer A decided to transfer the funds in IRA E to a financial institution closer to her home. In November of 2009, Taxpayer A withdrew Amount 1 from IRA E and inadvertently deposited it into Account G, a non-IRA account with Financial Institution H.

Taxpayer A received a Notice of Deficiency in 2011 related to Taxpayer A's 2009 Form 1040 and the distribution from IRA B. Taxpayer A's tax preparer spoke with an IRS representative who indicated that a resolution would require amending Taxpayer A's 2009 and 2010 Forms 1040 to report required minimum distributions ("RMDs") for those years and that Amount 1 (less RMDs) be transferred into an IRA with RMDs continuing for the future. Taxpayer A's 1040s were amended, RMDs were distributed and reported and Amount 2 was transferred into IRA I with Financial Institution H on December 21, 2011.

On March 12, 2012, Amount 3, the account balance in IRA I less the RMD for the 2012 taxable year, was transferred to IRA J with Financial Institution K.

Taxpayer A intended for Amount 1 to remain in a retirement plan. At the time of the distribution she was 86 years old and being treated for multiple serious medical conditions. In addition, Taxpayer A was the sole caregiver of her husband who suffered from a medical condition that impaired her mental alertness. Taxpayer A represents that during the entire rollover period, Taxpayer A experienced enormous stress resulting from these circumstances that affected her ability to manage her financial affairs. As a result, Taxpayer A missed the rollover deadline. The ruling request is accompanied by a letter from Taxpayer A's physician which describes the stress she was under and its impact on the management of her financial affairs. In addition, Taxpayer A represented that she acted on the advice of an IRS representative and believed that the matter had been resolved when Amount 1 (minus RMDs) was transferred to an IRA in 2011.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amount 1

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 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) 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.

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) 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 the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 was due to the combined effect of the medical conditions of herself and her husband and the resulting stress which impaired her ability to manage her financial affairs during the 60-day rollover period. Taxpayer A did attempt to rectify the problem by following the directions of an IRS representative to amend her 2009 and 2010 tax returns and move Amount 2 from Account G, a non-IRA account, to IRA I.

Therefore, pursuant to section 408(d)(3) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to the contribution of Amount 2 to IRA I on December 21, 2011, such 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.

A copy of this letter ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office. If you wish to inquire about this ruling, please contact (I.D. #), , at ( ) .

Sincerely yours,

Carlton A. Watkins

Manager
Employee Plans Technical Group 1

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose, Notice 437

cc: