



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

201523023

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

MAR 10 2015

U.I.L. 408.03-00

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XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

T: EP: RA: T3

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

IRA X = XXXXXXXXXXXXXXXXXXXX

Plan Y = XXXXXXXXXXXXXXXXXXXX

Bank B = XXXXXXXXXXXXXXXXXXXX

Organization F = XXXXXXXXXXXXXXXXXXXX

Amount D = XXXXXXXXXXXXXXXXXXXX

Company E = XXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxxxxxx:

This is in response to your request dated October 7, 2014, as supplemented by correspondence dated January 15, 2015, January 23, 2015, January 27, 2015, and February 9, 2015, submitted by you, 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.

On December 5, 2012, Taxpayer A received a distribution of Amount D from IRA X. Taxpayer A asserts that her failure to accomplish a rollover of Amount D within the 60-day period prescribed by section 408(d)(3) of the Code was due to an administrative procedure of Organization F which resulted in Amount D not being rolled over into another retirement account within the 60-day period.

Taxpayer A had IRA X with Company E. On December 5, 2012, Taxpayer A withdrew Amount D from IRA X with the intent to consolidate and rollover Amount D into Plan Y. On February 1, 2013, within the 60-day period, Taxpayer A issued a check payable to Organization F to rollover Amount D into Plan Y. However, on February 26, 2013, the check was returned by Organization F along with a letter stating that Organization F did not accept "starter checks".

Taxpayer A, in order to avoid the "starter check" problem, sent another check drawn on Bank B totaling Amount D to Organization F which was cleared on March 7, 2013, and was deposited into Plan Y. Taxpayer A represents that Amount D has not been used for any other purpose and remains in Plan Y.

Documentation submitted and a copy of the returned check that Taxpayer A made payable to Organization F on February 1, 2013, and was returned by Organization F on February 26, 2013, shows that the check was to rollover Amount D into Plan Y.

Based on the foregoing facts and representations, you request 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 Amount 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 60<sup>th</sup> day after the day on which the individual received 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 included 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.

Rev. Proc. 2003-16, 2003-4 I.R. B. 359, 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 due to Organization F's administrative procedures of not accepting "starter checks" which resulted in Amount D not being rolled over into another retirement account, Plan Y, within the 60-day period.

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 D 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 of Amount D into Plan Y, on March 7, 2013, will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

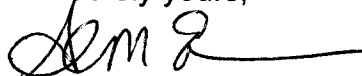
This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transactions 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 have any questions concerning this ruling, please contact xxxxxxxx, xxxxxxxx, at xxxxxxxxxxxxxx. All correspondence should be addressed to SE:T:EP:RA:T.

Sincerely yours,



Sherri M. Edelman, Manager  
Employee Plans Technical

Enclosures:

Deleted copy of letter ruling  
Notice of Intention to Disclose