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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

201523025

MAR 13 2015

Uniform Issue List: 408.03-00

T: EP: RA: T1

Legend

Taxpayer A =

IRA B =

Account C =

Financial Institution D =

Financial Institution E =

Amount 1 =

Dear :

This is in response to your October 4, 2014, as supplemented by correspondence dated December 8, 2014, 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 on January 3, 20 , he received a distribution equal to Amount 1 from IRA B, an individual retirement account described in section 408(a) of the Code, which was maintained by Financial Institution D. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) was due to a medical injury that occurred during the rollover period.

Taxpayer A is a fireman for the City Y fire department. Taxpayer A wanted to improve the performance of his retirement savings in IRA B, which was maintained by Financial Institution D. On January 3, 20 , Taxpayer A took a distribution equal to Amount 1 from IRA B which was deposited into Account C, a non-IRA account maintained with Financial Institution E, on January 7, 20 . Taxpayer A states that he intended to roll over Amount 1 into another IRA but that on February 15, 20 , he suffered a medical injury at work and was put on medical leave. The injury occurred during the 60-day period, and Taxpayer A's medical leave lasted until March 10, 20 a date after the expiration of the 60-day period. During this time, Taxpayer A was also caring for his disabled spouse.

Taxpayer A further states that Amount 1 was withdrawn from non-IRA Account C in February of 20 , and was used to cover personal expenses incurred by Taxpayer A. Taxpayer A submitted bank statements showing the redeposit of Amount 1 into Account C on September 16, 20 .

Based on the above facts and representations, Taxpayer A requests that the Service waive the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B.

Section 408(a) of the Code defines an IRA to mean a trust created or organized in the United States, and requires that the trustee be a bank or an approved non-bank trustee.

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.

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) 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 or 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 of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) 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 the Service will issue a ruling waiving the 60-day rollover requirement in cases 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 taxpayer. 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 in this case indicate that the distribution of Amount 1 from IRA B was used as a short-term, interest-free loan to cover personal expenses incurred by Taxpayer A. The Committee Report describing legislative intent indicates that Congress enacted the rollover provisions to allow portability between eligible plans including IRAs. Using a distribution as a short-term loan to cover personal expenses is not consistent with the intent of Congress to allow portability between eligible plans. Thus, the information presented does not demonstrate circumstances that would justify a waiver of the 60-day rollover period pursuant to section 408(d)(3)(I) of the Code and Rev. Proc. 2003-16.

Accordingly, the Service hereby declines to waive the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B and thus Amount 1 cannot be rolled over into an IRA. Amount 1 must be included in Taxpayer A's gross income for the 20 taxable year.

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 at . Please address all correspondence to .

Sincerely yours,

Carlton A. Watkins

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

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