TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

201524031

MAR 18 2015

SE:T:EP:RA:T1

Uniform Issue List: 408.03-00

Legend

Taxpayer A =

IRA B =

IRA C =

Account D =

Trust E =

Financial Institution F =

Financial Institution G =

Financial Institution H =

Amount 1 =

Dear :

This is in response to your request dated November 20, 2014, as supplemented by correspondence dated February 18, 2015, in which you request, through your authorized representative, 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 he received a distribution equal to Amount 1 from IRA B, an annuity contract described under section 408(b) of the Code, which was maintained by Financial Institution F. Taxpayer A asserts that his failure to accomplish a rollover of Amount 1 within the 60-day period prescribed by 408(d)(3)(A) was due to a combination of factors, including caring for his terminally-ill wife, grieving her loss after her death, being provided with confusing distribution forms, and relying on Financial Institution G to effectuate the rollover. Taxpayer A was 77 years old on the date of the distribution.

On June 17, 2002, Taxpayer A purchased an IRA annuity contract, IRA B. The initial guarantee period for IRA B was 10 years. In 2012, Taxpayer A received correspondence from Financial Institution F informing Taxpayer A that IRA B was scheduled to mature on June 17, 2012. As with previous IRAs, Taxpayer A planned to roll over the cash surrender value of IRA B by direct transfer into IRA C, an individual retirement account under section 408(a) of the Code, which was maintained by Financial Institution G. Financial Institution G had been Taxpayer A's investment advisor for over 30 years. Taxpayer A maintained his retirement account, IRA C, and a non-IRA account, Account D, with Financial Institution G. Account D is a non-IRA account held within Trust E, a revocable living trust established by Taxpayer A and his spouse. Taxpayer A and his spouse were the Grantors and Co-Trustees of Trust E.

In correspondence dated April 14, 2012, Financial Institution F informed Taxpayer A that if he did not act by June 17, 2012, IRA B would automatically renew at a substantially lower rate. In early May, while Taxpayer A was waiting for further instructions from Financial Institution F regarding how to effectuate a rollover of the proceeds from IRA B to IRA C, Taxpayer A's spouse of 55 years was diagnosed with a terminal illness. After her diagnosis, Taxpayer A began caring for his wife at home prior to her move to hospice care.

During the latter part of May, Taxpayer A received the surrender request form sent by Financial Institution F. Taxpayer A was confused by the form, which did not specifically provide a rollover option. Taxpayer A, distraught over his wife's condition and preoccupied with her care, completed the form by identifying Account D, a non-IRA account, as the account into which the proceeds from IRA B should be deposited. Taxpayer A mailed the surrender request form back to

Financial Institution F on May 25, 2012. On June 12, 2012, Taxpayer A's spouse died.

On June 20, 2012, Financial Institution F wired Amount 1 to non-IRA Account D. You represent that under state law and the terms of Trust E, Taxpayer A, is the Surviving Grantor and sole Trustee, and has full ownership and control over the assets in non-IRA Account D.

On August 14, 2012, a date within the 60-day rollover period, Taxpayer A completed a Beneficiary Distribution Form received from Financial Institution G regarding the disposition of his deceased wife's IRA maintained by Financial Institution G. Taxpayer A indicated on the form that the assets in her IRA should be rolled over to IRA C. At this time, Taxpayer A did not follow up with Financial Institution G to confirm that the distribution of Amount 1 from IRA B had been rolled over into IRA C because Taxpayer A assumed that Financial Institution G had properly handled his financial affairs and that Amount 1 had been rolled over into IRA C. Taxpayer A represents that Amount 1 has not been used for any other purpose.

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 and that Taxpayer A be given a period of 60 days from the issuance of a private letter ruling to roll over Amount 1 into an IRA.

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. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I).

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 and documentation submitted by Taxpayer A are consistent with his assertion that the failure to accomplish a rollover of Amount 1 within the 60-day period prescribed by 408(d)(3)(A) of the Code was due to a combination of factors, including caring for his terminally-ill wife, grieving her loss after her death, being provided with confusing distribution forms, and relying on Financial Institution G to effectuate the rollover.

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 B. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 into an IRA account. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contributions, Amount 1 will be considered a rollover contribution within the meaning of section 408(d)(3).

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.

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

If you wish to inquire about this ruling, please contact
at . 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:
Notice of Intention to Disclose
Deleted copy of this letter

cc: