TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201537033

JUN 18 2015

Uniform Issue List: 408.03-00

SE:T:EP:RA:T1

Legend

Taxpayer A =

Taxpayer B =

IRA C =

Account D =

Financial Institution E =

Financial Institution F =

State X =

Amount 1 =

Amount 2 =

Amount 3 =

Amount 4 =

Dear :

This is in response to your letter dated February 11, 2015, 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 B represents that on September 18, 2014, she requested a distribution of Amount 1 from her husband's IRA, IRA C, an individual retirement account described in section 408(a) of the Code. Taxpayer B asserts that her failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) was due to caring for her mother who was seriously ill during the rollover period.

Taxpayer A was the owner of IRA C, which was maintained by Financial Institution E. Taxpayer B is the spouse of Taxpayer A and handles all of the family's finances. Taxpayer A and Taxpayer B file their federal Income Tax Return jointly.

On September 18, 2014, Taxpayer B requested a distribution of Amount 1 from IRA C to cover a down payment on a home for Taxpayer A's and Taxpayer B's son. At the time of the distribution, Financial Institution E advised Taxpayer B that if she "linked" IRA C to Taxpayer A's and Taxpayer B's checking account, Account D, Amount 1 could be rolled back into IRA C directly from Account D. Account D is a non-IRA account maintained by Financial Institution F. On September 22, 2014, Amount 1 was deposited into Account D.

On August 11, 2014, Taxpayer A and Taxpayer B liquidated the trust that held their life insurance policies. They had been trying for years to change the ownership of the policies due to high annual fees. On August 5, 2014, the courts approved the ownership change. On November 10, 2014, Taxpayer A and Taxpayer B requested loans from their insurance policies totaling Amount 2. On November 18, 2014, a date within the 60-day rollover period, Amount 2 was deposited by the insurance company directly into Account D. However, Taxpayer A did not realize that Amount 2 had been deposited into Account D until November 25, 2014, approximately a week after the expiration of the 60-day period. Taxpayer A tried to deposit Amount 1 into IRA C on this date via next day mail; however, Financial Institution E would not accept the attempted rollover back into IRA C.

From September 1 through the end of November, 2014, Taxpayer B was trying to care for her mother who suffers from late stage Alzheimer's disease, which had been initially diagnosed in 2012. From August through October 4, 2014, Taxpayer B, who worked full time, was spending 8 hours a day with her mother due to inadequate care of and frequent injuries sustained by her mother at the memory care unit where her mother resided. Her mother was not being fed, her medications were not properly given, and she was left soiled and unattended in her bed. On September 29, 2014, her mother fell while trying to get out of bed resulting in a severe head injury, and she fell again three hours later while being left to walk alone. On October 4, 2014, Taxpayer B moved her mother to a small group home where she could receive competent care. Because the move was stressful for her mother and her mother was new to the home, Taxpayer B needed to monitor her mother's behavior. Between transitioning her mother to the new facility, taking her to doctors' appointments to adjust her medications, and filing a complaint with the State X Department of Health Services against the prior facility, Taxpayer B did not monitor Account D for the deposit of Amount 2. For this reason, she did not attempt to roll over Amount 1 back into IRA C until November 25, 2014, a week after the expiration of the 60-day rollover period. However, the balance in Account D on November 18, 2014, was equal to Amount 4, an amount that exceeded Amount 1.

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 C.

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 documentation submitted by Taxpayer A and Taxpayer B are consistent with Taxpayer B's assertion that the failure to complete a rollover of the distribution of Amount 1 from IRA C was due to Taxpayer B's caring for her mother who was seriously ill during the 60-day rollover period.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover period with respect to Amount 1. Provided all other requirements of section 408(d)(3), except the 60-day requirement, were met with respect to the contribution of Amount 1 to IRA C, the contribution of this amount is 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.

If you wish to inquire about this ruling, please contact
. 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