



COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201807010

NOV 22 2017

Uniform Issue List: 408.03-00

SE:T:EP:RA:T1

Legend

Taxpayer A =

IRA Annuity B =

Non-IRA Account C =

Insurance Company D =

Financial Institution E =

Amount 1 =

Dear :

This is in response to your request dated October 30, 2017, 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 she received a distribution equal to Amount 1 from IRA Annuity B, which was maintained by Insurance Company D. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) of the Code was due to the failure of her financial advisor to invest

Amount 1 in an IRA account as well as a medical condition that impaired Taxpayer A's cognitive function and ability to understand financial statements.

Taxpayer A owned IRA Annuity B, which was issued by Insurance Company D. Taxpayer A also owned a non-IRA account, Non-IRA Account C, which was maintained by Financial Institution E. Taxpayer A wanted to reinvest IRA Annuity B by cashing in the annuity contract and rolling over the proceeds to an IRA account. On October 20, 2014, Amount 1 was distributed from IRA Annuity B and deposited into Non-IRA Account C. On November 13, 2014, Taxpayer A's financial advisor at Financial Institution E invested Amount 1 in various bonds, mutual funds and certificates of deposit. While Taxpayer A believed that these investments were held by an IRA account, Amount 1 continued to be held in Non-IRA Account C. Taxpayer A first became aware of the failed rollover in May of 2016 when she received a Notice of Deficiency from the Service.

Taxpayer A represents that Amount 1 has not been used for any other purpose.

Based on the above facts and representations, you request a ruling that the Service waive the 60-day rollover requirement under section 408(d)(3) of the Code as to the distribution of Amount 1.

Section 408(a) of the Code defines an individual retirement account 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(b) of the Code defines an individual retirement annuity to include an annuity contract that is issued by an insurance company and satisfies certain requirements.

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)(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 and documentation submitted are consistent with Taxpayer A's assertion that the failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) of the Code was due to the failure of her financial advisor to invest Amount 1 in an IRA account as well as a medical condition that impaired Taxpayer A's cognitive function and ability to understand financial statements.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover requirement with respect to the distribution equal to Amount 1. Taxpayer A has 60 days from the issuance of this letter ruling to complete the rollover of an amount not exceeding Amount 1 into an IRA.

Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, will be met with respect to the contribution of Amount 1, such contribution 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.

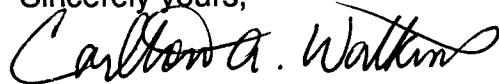
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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, Manager
Employee Plans Technical Group 1

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

cc: