



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

201930027

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

MAY 01 2019

UIL No.: 9100.00-00

T.E.P. RA:TI

Legend:

Taxpayer A =

Roth IRA B =

Roth IRA C =

Financial Institution D =

Financial Institution E =

Tax Advisor F =

Amount 1 =

Amount 2 =

Amount 3 =

Amount 4 =

Dear :

This is in response to a letter dated November 5, 2018, as supplemented by correspondence dated February 26, 2019, submitted on your behalf, by your authorized representative, in which you request a ruling under section 301.9100-3 of the Procedure and Administration Regulations (the "Regulations").

The following facts and representations have been submitted under penalty of perjury in support of the requested ruling.

Taxpayer A was the owner of a Roth IRA, Roth IRA B, which was maintained by Financial Institution D. For tax year , Taxpayer A contributed Amount 1 to Roth IRA B. Taxpayer A contributed Amount 2 to Roth IRA B for each of the and tax years. In , Taxpayer A transferred the assets in Roth IRA B to Roth IRA C, which was maintained by Financial Institution E. From through , Taxpayer A contributed Amount 3 each year to Roth IRA C. The total contributions made to Roth IRA B and Roth IRA C for tax years through equaled Amount 4.

Taxpayer A had been working with a certified public accountant, Tax Advisor F, since to prepare her tax returns. Tax Advisor F had prepared Taxpayer A's tax returns for years through and was aware that Taxpayer A was making Roth IRA contributions for each of these years. Tax Advisor F was also aware of Taxpayer A's modified adjusted gross income. However, Tax Advisor F failed to inform Taxpayer A that Taxpayer A's modified adjusted gross income in tax years through exceeded the limit for eligibility to make Roth IRA contributions. Tax Advisor F also did not inform Taxpayer A of the time for making the election to recharacterize her Roth IRA contributions. Taxpayer A was not aware she was ineligible to make Roth IRA contributions until March of after the deadline for recharacterizing her Roth IRA contributions in tax years through , when she met with an investment advisor. The investment advisor informed Taxpayer A that her modified adjusted gross income exceeded the limit for Roth IRA contributions in these years. Soon thereafter, Taxpayer A sought additional professional advice and filed this request for relief.

Taxpayer A represents that she timely filed Form 1040 tax returns for years through . Taxpayer A also represents that Amount 4 plus all earnings on Amount 4 have never left Roth IRA C. Taxpayer A represents that, in the event the request for relief is granted, no deduction will be claimed for recharacterized contributions to a traditional IRA.

Based on the facts and representations submitted, Taxpayer A requests an extension of time to recharacterize the Roth IRA contributions made to Roth IRA B and Roth IRA C for tax years through , which total Amount 4, as having been made to a traditional IRA pursuant to section 301.9100-3 of the Regulations.

With respect to your ruling request, section 408A(d)(6)(A) of the Internal Revenue Code (the "Code") provides that except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to another individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

Section 408A(d)(6)(B)(i) of the Code provides that subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by the net income allocable to such contribution.

Section 408A(d)(7) of the Code defines the due date, for purposes of this subsection, to mean the due date prescribed by law (including extensions of time) for filing the taxpayer's return for the taxable year.

Section 1.408A-5, Q&A-1 of the Federal Income Tax Regulations (the "I.T. Regulations") provides that, except as otherwise provided by the Secretary, a taxpayer may elect to recharacterize an IRA contribution made to one type of IRA as having originally been made to another type of IRA by making a trustee-to-trustee transfer of the IRA contribution to the other type of IRA. In a recharacterization, the IRA contribution is treated as having been made to the transferee IRA and not the transferor IRA. This section further provides that the recharacterization election generally must occur on or before the date prescribed by law, including extensions, for filing the taxpayer's federal income tax return for the year of the contribution.

Section 1.408A-5, Q&A-2 of the I.T. Regulations requires that the net income attributable to the amount of a contribution being recharacterized must be transferred to the other type of IRA along with the contribution.

Section 1.408A-5, Q&A-6 of the I.T. Regulations describes how a taxpayer makes the election to recharacterize the IRA contribution. To recharacterize a Roth IRA contribution: (1) the taxpayer must notify the Roth IRA trustee that the taxpayer has elected to recharacterize the contribution, (2) the taxpayer must provide the trustee (and the transferee trustee, if different from the transferor trustee) with specified information that is sufficient to effect the recharacterization, and (3) the trustee must transfer the contribution and the net income allocable to the contribution to the IRA.

Sections 301.9100-1, 301.9100-2, and 301.9100-3 of the Regulations provide guidance concerning requests for relief submitted to the Internal Revenue Service (the "Service") on or after December 31, 1997. Section 301.9100-1(c) provides that the Commissioner of Internal Revenue, in his discretion, may grant a reasonable extension of the time fixed by a regulation, a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin for the making of an election or application for relief in respect of tax under, among others, Subtitle A of the Code.

Section 301.9100-2 of the Regulations lists certain elections for which automatic extensions of time to file are granted. Section 301.9100-3 generally provides guidance with respect to the granting of relief with respect to those elections not referenced in section 301.9100-2. The relief requested in this case is not referenced in section 301.9100-2.

Section 301.9100-3 of the Regulations provides that applications for relief that fall within

section 301.9100-3 will be granted when the taxpayer provides sufficient evidence (including affidavits described in section 301.9100-3(e)) to establish that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief would not prejudice the interests of the Government.

Section 301.9100-3(b)(1) of the Regulations provides that a taxpayer will be deemed to have acted reasonably and in good faith if the taxpayer (i) requests relief under section 301.9100-1 before the failure to make a timely election is discovered by the Service; (ii) inadvertently failed to make the election because of intervening events beyond the taxpayer's control; (iii) failed to make the election because, after exercising reasonable diligence, the taxpayer was unaware of the necessity for the election; (iv) reasonably relied upon the written advice of the Service; or (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c)(1)(i) of the Regulations provides that the interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made (taking into account the time value of money).

Section 301.9100-3(c)(1)(ii) of the Regulations provides that ordinarily the interests of the Government will be treated as prejudiced if the tax years that would have been affected by the election had it been timely made are closed by the statute of limitations before the taxpayer's receipt of a ruling granting relief under this section.

In this case, Taxpayer A reasonably relied on a qualified tax professional who did not advise Taxpayer A of her ineligibility to make Roth IRA contributions for years through or of the necessity to make a timely election to recharacterize her Roth IRA contributions for these years. Thus, Taxpayer A is deemed to have acted reasonably and in good faith because Taxpayer A satisfies the requirements of section 301.9100-3(b)(1)(v) of the Regulations.

In addition, although the statute of limitations is closed for most of the years involved, Taxpayer A is not seeking relief to file amended returns for closed years and granting relief will not result in Taxpayer A having a lower tax liability in the aggregate for all taxable years affected by the election than she would have had if the election had been timely made. Thus, we find that, under section 301.9100-3(c)(1) of the Regulations, granting relief will not prejudice the interests of the Government.

With respect to Taxpayer A's ruling request, we rule that, pursuant to section 301.9100-3 of the Regulations, Taxpayer A is granted a period not to exceed 60 days from the date of this letter to recharacterize the contributions made to Roth IRAs B and C for the through the tax years, which total Amount 4, as contributions to a traditional IRA established under section 408 of the Code. The recharacterization must otherwise

satisfy applicable rules, including that the net income allocable to the contributions must be transferred to the traditional IRA.

This letter assumes that the above traditional and Roth IRAs qualify under Code sections 408 and 408A, respectively, at all relevant times.

This letter is directed only to the taxpayer who requested it. Code section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file with this office.

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

Sincerely yours,

Adam P. Zaebst, Acting Manager
Employee Plans Technical Group 1

Enclosures:
Deleted copy of letter
Notice 437

cc: