



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

201437028

JUN 04 2014

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Uniform Issue List: 408.03-00

Legend

Taxpayer A =

IRA B =

IRA C =

Investment Fund D =

Account E =

Financial Institution F =

Financial Advisor G =

Financial Institution H =

Financial Institution I =

Country J =

Individual K =

Amount 1 =

Amount 2 =

Amount 3 =

201437028

Amount 4 =

Amount 5 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Dear :

This is in response to your request dated October 15, 2013, as supplemented by correspondence dated May 16, 2014, 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, which was maintained by Financial Institution F. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) was due to errors made by Taxpayer A's financial advisors, Individual K and other advisors at Financial Advisor G, who did not understand that a separate IRA custodian was required. Taxpayer A intended to roll over Amount 1 from IRA B into a new rollover IRA that would invest in Investment Fund D, and erroneously believed that Account E, the account used to invest Amount 1, was an IRA account.

On or around Date 1, Taxpayer A contacted Individual K, a Vice President of Financial Advisor G, to discuss purchasing shares ("Shares") in Investment Fund D, a global investment fund in Country J. Taxpayer A submitted an affidavit signed by Individual K ("Affidavit"). The Affidavit states that under Individual K's direction, based on the information provided, a financial planner at Financial Advisor G completed a subscription application for U.S. tax exempt investors to purchase the Shares for Taxpayer A ("Subscription Agreement"). The Subscription Agreement identified the investor in Investment Fund D to be "Taxpayer A IRA." The Affidavit also states that under Individual K's direction, an account manager of Financial Advisor G completed the paperwork for Taxpayer

A's signature to allow the wire transfer from IRA B to Account E. On Date 2, Amount 1 was wired directly to the administrator and custodian for Investment Fund D, Financial Institution H, to purchase the Shares, and the Shares were deposited into non-IRA Account E. The Affidavit states that Individual K believed Amount 1 was transferred from one IRA custodian to another IRA custodian.

After the transfer of Amount 1 from IRA B to Account E, Taxpayer A received monthly financial statements for Account E, as prepared by Financial Institution H, which identified the owner of Account E as "Taxpayer A, IRA." Taxpayer A does not recollect receiving a Form 1099-R for the distribution of Amount 1 from Financial Institution F. Individual K states in the Affidavit that to the best of Individual K's knowledge, Financial Institution F did not issue a Form 1099-R for the distribution of Amount 1. Believing that Account E was an IRA account, Taxpayer A did not include Amount 1 in his gross income for the year of the distribution.

On Date 3, Taxpayer A withdrew some of the Shares from Account E, which converted into an amount totaling Amount 2. On Date 4, Taxpayer A deposited Amount 3, a portion of Amount 2, into IRA C, an IRA maintained by Financial Institution I. On Date 5 Taxpayer A deposited the remaining portion of Amount 2, Amount 4, into IRA C. The remaining Shares, equal to Amount 5, were withdrawn from Account E as Taxpayer A's required minimum distribution for the year.

On Date 6, while preparing Taxpayer A's 2012 federal income tax return, Financial Advisor G discovered that Financial Institution H was not an IRA custodian and that Account E was a non-IRA account.

Based on the above facts and representations, Taxpayer A requests a waiver of the 60-day requirement contained in section 408(d)(3) of the Code with respect to the Date 2 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 defines, and 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 is consistent with his assertion that the failure to complete a rollover of Amount 1 was a result of errors made by Taxpayer A's financial advisors, Individual K and other advisors at Financial Advisor G, who did not understand that a separate IRA custodian was required. Taxpayer A intended to roll over Amount 1 from IRA B into a new rollover IRA that would invest in Investment Fund D, and believed that Account E, the account used to invest Amount 1, and which was labeled "IRA," was an IRA account.

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, Amount 1 will be considered a rollover contribution with the meaning of section 408(d)(3).

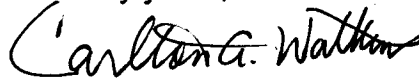
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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: