



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201506016

NOV 14 2014

Uniform Issue List: 408.03-00

SE : T: EP: RA: T2

XXXXX
XXXXX
XXXXX

Legend:

Taxpayer	=	XXXXX
IRA	=	XXXXX XXXXX
Amount 1	=	XXXXX
Amount 2	=	XXXXX

Dear XXXXX:

This is in response to your letter dated September 18, 2013, as supplemented by correspondence dated April 2, 2014, April 4, 2014 and May 27, 2014 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 represents that on February 1, 2013 and February 6, 2013, he received distributions of Amount 1 and Amount 2 respectively, from IRA. Taxpayer used Amount 1 and Amount 2 to buy a real estate investment property which he intended to place in a self-directed IRA. Taxpayer asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to confusion surrounding the structure of the transaction, and Taxpayer's medical condition which diminished his ability to maintain his finances.

Taxpayer represents that he took distributions of Amount 1 and Amount 2, with the intention of using the money to purchase real estate property and place it into an IRA. To this end, Taxpayer represents that he hired a Certified Public Accountant, attorney, financial advisor and realtor to help him with the transaction. However, Taxpayer represents that he, and not one of his professional advisors orchestrated the transaction. Taxpayer did not realize until after the 60-day rollover period expired that the property had not been placed into an IRA.

Around the time Taxpayer purchased the real estate property, Taxpayer was undergoing treatment for an illness. Taxpayer attributes this treatment as a contributing factor for his inability to adequately manage his finances and this transaction. During this time, Taxpayer continued to maintain employment and handle his other affairs.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount.

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 and 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 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 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 Service has the authority to waive the 60-day rollover requirement for a distribution from an IRA where the individual failed to complete a rollover to another IRA within the 60-day rollover period but was prevented from doing so because of one of the factors enumerated in Rev. Proc. 2003-16, for example, errors committed by a financial institution, death, hospitalization, postal error, incarceration, and/or disability. Taxpayer has failed to provide adequate documentation that any of the factors enumerated in Rev. Proc. 2003-16 resulted in his failure to complete a timely rollover.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby declines to waive the 60-day rollover requirement with respect to the distribution of Amount 1 and Amount 2 from IRA.

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.

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Pursuant to the 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 XXXXX at XXX-XXX-XXXXX. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Jason E. Levine, Manager,
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc: XXXXX
XXXXX
XXXXX