



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201440026

JUL 10 2014

SE:T:EP:RA:T3

U.I.L. 408.03-00

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXX

IRA X = XXXXXXXXXXXXXXXXXXXX

Bank C = XXXXXXXXXXXXXXXXXXXX

Amount D = XXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxx:

This letter is in response to your request dated November 13, 2013, as supplemented by correspondence dated April 7, 2014, submitted on your behalf, by your authorized representative, 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 A represents that he received a distribution on May 10, 2013, from IRA X totaling Amount D. Taxpayer A 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 the anxiety, and emotional stress caused by Hurricane Sandy. Taxpayer A further represents that Amount D has not been used for any other purpose and remains in his savings account with Bank C.

Taxpayer A represents that in the fall of 2012, Hurricane Sandy destroyed the main floor of his family home. From October 30, 2012 through December 18, 2012, Taxpayer A and his family lived with friends and in hotels. On December 18, 2012, a new heating system was installed and Taxpayer A and his family moved back into the upstairs part of their home.

Taxpayer A depleted all his savings to pay for the new heating system, demolition and mold remediation. During February 2013, Taxpayer A received a settlement from his homeowner's insurance company for structure damage and content losses. On May 10, 2013, Taxpayer A took a distribution of Amount D from IRA X in anticipation of needing such distribution to pay for additional construction bills. However, Taxpayer A delayed the construction as much as possible as he did not want to spend his retirement savings. On May 13, 2013, Taxpayer A deposited Amount D into his savings account with Bank C.

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

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 of the Code.

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) of the Code 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 received 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 included 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) of the Code 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. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

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), 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, or 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 does not demonstrate that Taxpayer A failed to accomplish a rollover of Amount D due to any of the factors cited in Rev. Proc. 2003-16. Taxpayer A has not submitted any evidence to show his inability to rollover Amount D within the 60-day period of the distribution. Taxpayer A has not described any situation that prevented him from rolling over Amount D into a rollover IRA during the 60-day rollover period. 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 D.

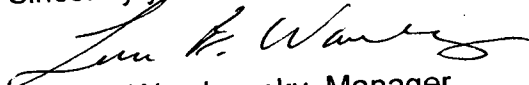
No opinion is expressed as to the tax treatment of the transactions described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

A copy of this letter is being sent to your authorized representative pursuant to a power of attorney on file in this office.

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 have any questions concerning this letter, please contact xxxxxxxxx, at xxxxxxxxx. All correspondence should be addressed to SE:TEP RA:T3.

Sincerely yours,


Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose

cc:

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