



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201440029

JUL 08 2014

Uniform Issue List: 408.03-00

SE: T: EP: RA: T2

XXXXX  
XXXXX  
XXXXX

Legend:

Taxpayer	=	XXXXX
IRA X	=	XXXXX XXXXX XXXXX
Amount	=	XXXXX

Dear XXXXX:

This is in response to your letter dated September 20, 2013, 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 April 12, 2013, he received a distribution totaling Amount from IRA X. On April 15, 2013, Taxpayer deposited Amount into his checking account with the intent to invest the funds in a new IRA with different investments. Taxpayer asserts that his failure to accomplish a rollover of Amount within the 60-day period prescribed by section 408(d)(3) of the Code was due to his medical condition. Taxpayer further represents that Amount has not been used for any other purpose.

Taxpayer represents that on April 12, 2013, he requested a distribution of Amount from IRA X. On April 15, 2013, Amount was deposited into his checking account. During the 60-day period following the distribution, Taxpayer was

suffering from physical and emotional medical issues related to a critical illness. He was also hospitalized and on prescription drugs during part of that time. It was not until June 18, 2013, after Taxpayer's medical condition improved, that Taxpayer realized that he missed the relevant 60-day rollover period. Taxpayer has provided documentation showing that he was treated for his medical condition during the 60-day rollover period. Taxpayer asserts that, as a result of his medical condition, he was unable to deposit Amount into an IRA.

Based on the facts and representation, you request a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement with respect to the distribution of Amount.

Section 402(h)(3) of the Code provides that any amount paid or distributed out of an individual retirement plan pursuant to a simplified employee pension shall be included in gross income by the payee or distributee, as the case may be, in accordance with the provisions of section 408(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.

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 60<sup>th</sup> 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 60<sup>th</sup> 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) (related to required minimum distributions under section 401(a)(9) and incidental death benefit requirements of section 401(a)).

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.

Revenue Procedure 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 Hedge Fund; (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, including documentation from his treating physician, is consistent with his assertion that the failure to accomplish a timely rollover was caused by his medical condition.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution from IRA X. Taxpayer is granted a period of 60 days from the issuance of this letter ruling to contribute Amount into a rollover IRA. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the 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 401(a)(9) of the Code.

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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.

If you wish to inquire about this ruling, please contact XXXXX XXXX at XXX-XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,

*Thomas C. Mayan (Asst. Dir.)*

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

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose