



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201450037

SEP 17 2014

SE: T: EP: RA: T2

Uniform Issue List: 408.03-00

Legend:

Taxpayer: =

IRA X =

Amount A =

Amount B =

Amount C =

Dear

This is in response to your request, dated June 26, 2013, as supplemented by correspondence dated August 5, 2013, October 28, 2013, December 11, 2013, January 31, 2014, and August 27, 2014, in which your authorized representative, on your behalf, requested 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 29, 2013, he received a distribution from IRA X of Amount A. 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 his medical condition which impaired his ability to make sound financial decisions.

Taxpayer withdrew Amount A from IRA X for the purpose of purchasing a home on April 30, 2013. Although Taxpayer had a purchase and sale agreement in place for the sale of his then current home, the distribution from IRA X was made with no expectation that the funds received at closing would be used to repay Amount A. The net cash to seller at closing was a fraction of Amount A. Further, withdrawing IRA assets to purchase the home was a departure from Taxpayer's past financing of home purchases. Taxpayer's prior home purchases had always been financed and a subsequent mortgage was obtained on the new home, evidencing that Taxpayer had the ability to obtain financing as opposed to taking a distribution from IRA X. Taxpayer submitted documentation from his treating physician attesting to Taxpayer's impaired cognitive abilities and that, due to the progressive nature of his clinical condition, he was not fit to make his own financial, legal and medical decisions. The initial diagnosis was made in July 2012, and confirmed by a subsequent diagnosis in July 2013. Taxpayer was able to roll over Amount C before the expiration of the 60-day period.

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 B, the difference between the distribution of Amount A, and Amount C that was timely rolled over into IRA X.

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) 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) of the Code).

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 (January 27, 2003) 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 information presented and documentation submitted by Taxpayer, including documentation from taxpayer's treating physician dated prior to the distribution of Amount A from IRA X stating that Taxpayer "is not considered fit to make his own financial [and] legal decisions," are consistent with his assertion that his failure to accomplish a timely rollover was due to his medical condition which impaired his ability to make sound financial decisions.

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 of Amount B from IRA X. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount B into an IRA. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the contribution of Amount B 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.

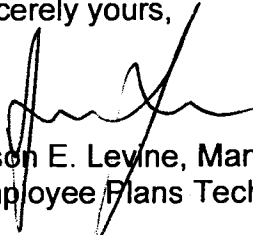
No opinion is expressed as to the tax treatment of the transaction described in this ruling under the provisions of any other section of either the Code or regulations which may be applicable.

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 is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact ***** . Please address all correspondence to SE:T:EP:RA:T2

Sincerely yours,



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

Enclosures:

Original deleted ruling letter
Notice of Intention to Disclose

cc: