



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201428018

APR 17 2014

Uniform Issue List: 408.03-00

SE:T:EP:RA:T2

XXXXX  
XXXXX  
XXXXX

Legend:

Taxpayer	=	XXXXX
IRA	=	XXXXX
Amount	=	XXXXX
Financial Institution A	=	XXXXX
Financial Institution B	=	XXXXX

Dear XXXXX:

This is in response to your request dated July 10, 2013, as supplemented by correspondence dated October 2, 2013, November 5, 2013, February 10, 2014 and February 19, 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 she received a distribution from IRA totaling Amount. Taxpayer asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to a mistake made by Financial Institution A.

Taxpayer represents that on October 18, 2012, she took a distribution from IRA, totaling Amount. On December 13, 2012, Taxpayer contacted an employee of Financial Institution A and instructed her to deposit Amount into an IRA with Financial Institution B. However, the employee of Financial Institution A did not transfer Amount into an account with Financial Institution B until December 20, 2012, after the 60-day rollover period deadline. Taxpayer has provided documentation indicating both that within the 60-day rollover period Taxpayer requested Amount to be rolled over to an IRA with Financial Institution B and that an employee with Financial Institution B stated that Amount would be rolled over to an IRA at Financial Institution B.

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) of the Code, 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 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) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code 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) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code).

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) of the Code do not apply to any amount required to be distributed under section 408(a)(6) of the Code.

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 (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 showing that, within the 60-day rollover period, Taxpayer requested, and an employee at Financial Institution B stated, that Amount would be rolled over to an IRA at Financial Institution B are consistent with her assertion that her failure to accomplish a timely rollover was caused by Financial Institution A's delay of the transfer of Amount to an IRA held by Financial Institution B.

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 from IRA. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount into an IRA or other eligible retirement plan. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

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.

**201428018**

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 at XXXXX. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,

A handwritten signature in cursive script that reads "Sherri Morris (acting for)".

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

Enclosures:

Ruling Letter

Notice of Intention to Disclose