



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201428015

APR 17 2014

Uniform Issue List: 408.03-00

SE:T:EP:RA:T2

XXXXX
XXXXX
XXXXX

Legend:

Taxpayer	=	XXXXX
Spouse	=	XXXXX
IRA X	=	XXXXX
IRA Y	=	XXXXX
IRA Z	=	XXXXX
Amount 1	=	XXXXX
Amount 2	=	XXXXX
Amount 3	=	XXXXX

Dear XXXXX:

This is in response to your request dated September 24, 2012, as supplemented by correspondence dated January 2, 2013, February 5, 2013, November 22, 2013 and December 5, 2013, 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:

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Taxpayer was the sole beneficiary of IRA X, IRA Y, and IRA Z, which was maintained by Spouse, who passed away on January 22, 2011. Taxpayer represents that on March 28, 2011, she received a distribution of Amount 1 from IRA X. On March 31, 2011, Taxpayer received two distributions, one from IRA Y for Amount 2, and another from IRA Z for Amount 3. 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 her poor physical and mental condition that were used following Spouse's death. Taxpayer represents that Amount 1, Amount 2 and Amount 3 have not been used for any other purpose.

On April 4, 2011, Taxpayer deposited Amount 1 into a non-qualified checking account, Account L. Additionally, on April 5, 2011, Taxpayer deposited Amount 2 and Amount 3 into a checking account. As a result of Taxpayer's mental and physical impairments, she failed to place Amount 1, Amount 2 and Amount 3 in an IRA. Taxpayer realized her inaction in March of 2012, when she provided her 1099-R forms to her CPA.

Taxpayer has submitted documentation supporting her assertion that during the relevant 60-day period, Taxpayer suffered from mental and physical illness, including Alzheimer dementia and other ailments that hospitalized her and diminished her ability to make financial decisions.

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 distributions of Amount 1, Amount 2 and Amount 3.

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 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) 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.

Taxpayer has submitted documentation supporting her assertion that during the relevant 60-day period, she suffered from mental and physical illness, including Alzheimer dementia and other ailments that hospitalized her and diminished her ability to make 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 1, Amount 2 and Amount 3 from IRA X, IRA Y and IRA Z, respectively. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1, Amount 2 and Amount 3 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 1, Amount 2, and

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Amount 3 will be considered rollover contributions 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.

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 XXXXX, at (XXX) XXXXX. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,

Sherri Morris (acting for)
Jason E. Levine, Manager,
Employee Plans Technical Group 2

Enclosures:
Ruling Letter
Notice of Intention to Disclose

cc: XXXXX
XXXXX
XXXXX