



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

JAN 28 2005

200516023

Uniform Issue List: 408.03-00

SE: T: EP: RA: T1

Legend:

Taxpayer A.....

Amount P

Amount Q.....

Company S

Company T.....

IRA X.....

Dear :

This is in response to a letter dated November 10, 2004, as supplemented by correspondence dated December 16, 2004, in which your authorized representative requests, on your behalf, 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 were submitted under penalty of perjury in support of your request.

Taxpayer A maintained IRA X, an Individual Retirement Account ("IRA") under Code section 408(a), with Company S. On [REDACTED] Taxpayer A withdrew Amount P from IRA X and deposited this amount in a non-IRA account with Company T. Previously, in [REDACTED] Taxpayer A retired from work to act as the primary caregiver for his wife, who had suffered severe brain damage due to an auto accident. During the last week of [REDACTED] and first week of [REDACTED], his wife's condition worsened and her neurologist determined that she should not be left alone for any period of time. Because Taxpayer A was preoccupied with his wife's care, he missed the 60-day period for rollovers by four days and deposited Amount Q into IRA X on September 13, 2004. From [REDACTED] to [REDACTED] Amount Q was held in the non-IRA savings account with Company T.

Based on the above facts and representations, Taxpayer A requests that the Internal Revenue Service (the "Service") waive the 60-day rollover requirement with respect to Amount Q because the failure to waive such requirement would be against equity or good conscience.

Code section 408(d)(1) 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.

Code section 408(d)(3) defines IRA rollovers and provides the rules applicable thereto.

Code section 408(d)(3)(A)(i) 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 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.

Code section 408(d)(3)(B) 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 one-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).

Code section 408(d)(3)(D) provides a similar 60-day rollover period for partial rollovers.

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

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 Code 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, 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.

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The information presented in this case indicates that Taxpayer A was providing full time care for his seriously disabled spouse and due to his intensive responsibility and involvement, he missed the 60-day period for rollovers by four days.

Therefore, pursuant to Code section 408(d)(3)(l), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount Q. Provided all other requirements of section 408(d)(3) are met with respect to such contribution, this amount will be considered a rollover contribution within the meaning of section 408(d)(3).

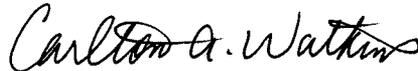
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other Code section which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Code section 6110(k)(3) 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 ruling has been sent to your authorized representative.

If you wish to inquire about this ruling, please contact

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

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Notice 437