



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201238029

JUN 25 2012

Uniform Issue List: 408.03-00

Legend:

Taxpayer A:

IRA X:

Amount M:

Custodian N:

Custodian P:

Custodian G:

Financial Institution M:

Dear :

This is in response to your letters dated September 30, 2010, June 22, 2011, July 8, 2011, August 23, 2011, and March 29, 2012, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day IRA rollover requirements contained in section 408(d)(3) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age 45, maintained an Individual Retirement Account (IRA), IRA X maintained by Custodian N. Taxpayer A, asserts that on April 28, 2009, she intended to transfer Amount M from IRA X to a rollover IRA at Financial Institution M, and that her failure to accomplish a rollover of Amount M within the 60-day period prescribed by section 408(d)(3) of the Code was due to errors on the part of Custodian G, and Financial Institution M that resulted in Amount M being transferred to a non-IRA

account. Taxpayer A further represents that Amount M has not been used for any other purpose.

In 2008, Custodian N decided to terminate its services program as of December 31, 2008. All participants with active accounts, including Taxpayer A were requested to close those accounts either by redeeming out of the account, by transferring, or rolling over the assets to another custodial account. Custodians P and G were engaged to administer the Custodian N program's account liquidations, transfers, registration changes and address changes. As part of the administration of accounts, an associate at Custodian G, in error, added the name of Taxpayer A's spouse and their address to the account registration and account statement mailing address for IRA X.

On April 7th 2009, Taxpayer A selected and contacted a new IRA custodian, Financial Institution M, and requested that an IRA rollover account be established to accept the asset transfer from Custodian N via a qualified IRA rollover to the newly established rollover IRA account at Financial Institution M. Taxpayer A provided Financial Institution M a copy of her account statement, which, as a result of the error by the associate of Custodian G, showed her husband as co-owner of IRA X. Based on the incorrect account statement information processing and contrary to Taxpayer A's instructions, Financial Institution M opened a joint non-retirement account. On April 28, 2009, Amount M was transferred to the non-retirement joint tenant account maintained by Financial Institution M, instead of to an IRA Rollover account as requested by Taxpayer A. Taxpayer A believed that Amount M had been properly rolled over to another IRA.

Taxpayer A first discovered there was a problem with her IRA in March 2010 while preparing her 2009 Federal income tax return. Taxpayer A contacted Custodians P and G and they recoded the April 2009 transfer to Custodian M as a distribution and issued a Form 1099-R.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount M.

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) 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)).

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)(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

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 Internal Revenue 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 A is consistent with her assertion that her failure to accomplish a rollover of Amount M within the 60-day period prescribed by section 408(d)(3) of the Code was due to errors on the part of employees of Custodian G, and Financial Institution M.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Internal Revenue Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount M from IRA X. Pursuant to this ruling letter, Taxpayer A is granted a period of 60 days from the date of the issuance of this letter ruling to make a rollover contribution of

Amount M to a rollover IRA. Provided all other requirements of Code section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, Amount M will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

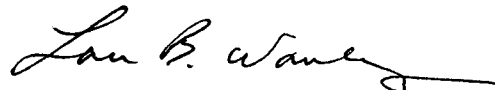
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

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 have any questions, please contact _____ (I.D.# _____) by phone at _____ or fax at _____

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: