



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

200634053

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

*Uniform Issue List 408.00-00*

MAY 22 2006

T:EP:RA:13

**Legend:**

Bank A =

Organization B =

Date E =

Date F =

Amount G =

Amount H =

Amount K =

Code L =

County Office M =

Court N =

IRA X =

IRA Y =

Dear

This is in response to your request dated January 9, 2006, submitted by your authorized representative, for a ruling to waive the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code"). Correspondence dated April 6, 2006, supplemented the request.

Under penalty of perjury, you have submitted the following facts and representations:

You, age 46, represent that funds, totaling Amount K, were seized from IRA X and IRA Y by Organization B. You assert that your failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to your inability to access the IRA funds after they were seized by Organization B. You further represent that Amount K has not been used for any other purpose

You maintained IRA X and IRA Y at Bank A. On Date E, 2005, Organization B, under authority of Code L, seized a total of Amount K from IRA X and IRA Y pursuant to a seizure warrant. IRA X contained Amount G and IRA Y contained Amount H. The seizure warrant was issued pursuant to sections 18.2-249 and 19.2-368, et seq. of Code L: Amount K was delivered to County Office M for "storage pending further Order of [Court N]".

The IRA funds were seized because Organization B believed that such funds were used in connection with, furnished in exchange for, or were proceeds from the illegal sale or distribution of a controlled substance.

However, it was subsequently shown that there was no connection between the funds seized from IRA X and IRA Y and any illegal activity concerning the possession or distribution of controlled substances. Accordingly, the funds were released by Organization B, and returned to you on Date F, 2006. Such date was after the 60-day time period for rolling over the funds had expired.

Based on the facts and representations, you request that the Internal Revenue Service waive the 60 day rollover requirement with respect to your contribution of Amount L into IRA Y because the failure to waive such requirement would be against equity or good conscience.

With respect to your ruling request, 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. 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), 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 you presented demonstrates that you had no control over the Amounts G and H being seized from IRA X an IRA Y. During the time following the seizure of Amounts G and H, such amounts were under the control County Office M, and you had no ability to access them. Upon release of Amounts G and H you immediately sought a waiver of the 60-day rollover period from the IRS.

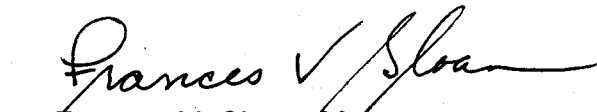
Accordingly, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to Amounts G and H. You are granted a period of 60 days from the issuance of this ruling letter to contribute Amounts G and H (totaling Amount K), into a Rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount K will be considered a 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.

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 (ID - ) at ( ) - . Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,

  
Frances V. Sloan, Manager,  
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose

CC: