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

201432035

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List: 408.03-00

MAY 14 2014

SE:T:EP:RA:T2

Legend:

Taxpayer =

IRA X =

IRA Y =

Account F =

Financial Institution =

Amount K =

Amount L =

Amount N =

Amount P =

Dear :

This is in response to a letter dated April 10, 2013, submitted by your authorized representative on your behalf, 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 maintained IRA X and IRA Y. Taxpayer asserts that he received distributions of Amount K from IRA X and Amount L from IRA Y. Taxpayer asserts that his failure to rollover these amounts within the 60-day period prescribed by section 408(d)(3) of the Code was due to an existing mental condition which impaired his ability to make sound financial decisions. Taxpayer further represents that Amount K and Amount L have not been used for any other purpose.

Taxpayer has been treated for a medical condition that impairs his neurological functions. After being diagnosed with this medical condition, Taxpayer received financial advice from his attorney that he should change the beneficiary designation within IRA X and IRA Y and also take a small distribution from his IRAs in order to make a charitable contribution. Instead of following his attorney's advice, on October 20, 2010, Taxpayer, confused from his medical condition, directed Financial Institution to distribute Amount K from IRA X and Amount L from IRA Y to Account F (established for the beneficiary to whom his attorney advised him to name as his IRA X and Y designated beneficiary), with the mistaken belief that he was following his attorney's advice. On January 25, 2012, Financial Institution allowed the return of Amount N to IRA X, from which Amount P was subsequently transferred to IRA Y on January 31, 2012.

Based on the facts and representations, you request a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement with respect to the distributions of Amount K from IRA X and of Amount L from IRA Y.

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 60^{th} 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)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

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 presented and documentation submitted by Taxpayer, including documentation from his treating physician and the attorney who advised him to change the beneficiary designations of IRA X and IRA Y, is consistent with his assertion that his failure to accomplish a timely rollover of Amount K and Amount L was caused by an existing medical condition which impaired his ability to make sound 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 K from IRA X and Amount L from IRA Y. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to the return of Amount N to IRA X, such contribution will be considered a valid 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 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.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

If you have any questions, please contact
Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,

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

Enclosures:
Deleted Copy of Ruling Letter
Notice of Intention to Disclose

CC: