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

201450036

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

SEP 17 2014

SE:T: EP:RA:T2

Uniform issue list: 408.03-00

Legend:

Taxpayer A =

IRA X =

IRA Y =

Amount B =

Amount C =

Financial Institution D =

Dear ,

This is in response to your request, dated June 11, 2014, supplemented with correspondence dated August 26, 2014, in which your authorized representative, on your behalf, requested 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 A represents that he received a distribution from IRA X and IRA Y on October 12, 2010. Each distribution was Amount B and the total distribution, Amount C. Taxpayer asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to an error committed by Financial

Institution D that was not discovered until the 60-day period had expired. Taxpayer further represents that Amount C has not been used for any purpose.

It was Taxpayer A's long- established practice to roll over matured Certificates of Deposit ("CDs") from an Individual Retirement Account ("IRA") to another IRA with a different bank in search of a better interest rate. Taxpayer did so in 1989, 2004, 2007, and again in May 2010, when he completed a successful rollover of matured CDs.

On October 12, 2010, the day he received the distributions from IRA X and IRA Y, Taxpayer A went to Financial Institution D to open a rollover IRA consisting of the two CDs. Unbeknownst to Taxpayer A, however, and contrary to his instructions, the rollover IRA was not created and the two CDs were transferred to a regular non-IRA account.

Taxpayer A did not discover the error until November 2013, when he called Financial Institution D to inquire about a letter he received informing him of the maturity date of the CDs, which was incorrect. It was at that time that Taxpayer A learned that the CDs were held in a non-IRA account. Taxpayer A attempted to resolve the matter with Financial Institution D but to no avail.

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 distribution Amount B.

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) 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)(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) 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 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 his assertion that his failure to accomplish a timely rollover was a result of an error committed by Financial Institution D that was not discovered until after the 60-day period had expired.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distributions from IRA X and IRA Y totalling Amount C. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount C into an IRA. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, the contribution of Amount C will be considered a rollover contribution within the meaning of section 408(d)(3).

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 *******. 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: