



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

APR 19 2006

UICs: 408.00-00  
408.03-00

T:EP:RA:T3

LEGEND:

Taxpayer A:

IRA X:

IRA Y:

IRA Z:

Roth IRA Y:

Roth IRA Z:

Roth IRA X:

Company M:

Company N:

Sum 1:

Sum 2:

Sum 3:

Month 1:

Dear :

This is in response to the September 28, 2005, request for relief under sections 301.9100-1 and 301.9100-3 of the Procedure and Administrative Regulations ("Regulations"), submitted by you, as supplemented by correspondence dated December 8, 2005, January 31, 2006, February 21, 2006, and April 12, 2006. The September 28, 2005 letter was received by the Internal Revenue Service on September 30, 2005. The following facts and representations support your request for relief.

Taxpayer A formerly held IRA X, a traditional individual retirement account ("IRA") described in section 408(a) of the Internal Revenue Code ("Code"), with Company M. During Month 1, 2004, Taxpayer A converted IRA X into Roth IRA Y, described in Code section 408A, also with Company M. The amount converted approximated Sum 1. Said Sum 1 was included as Federal adjusted gross income on Taxpayer A's calendar year Federal Form 1040, U.S. Individual Income Tax Return, which, it has been represented was timely filed.

Additionally, Taxpayer A formerly held IRAs Y and Z with Company N. During calendar year 2004, Taxpayer A converted IRA Y to Roth IRA Z and also converted IRA Z to Roth IRA X. Roth IRAs X and Z were also maintained with Company N. The value of IRA Y when converted was Sum 2, and the value of IRA Z when converted was Sum 3. Said Sums 2 and 3 were included as Federal adjusted gross income on Taxpayer A's calendar year Federal Form 1040, U.S. Individual Income Tax Return, which, it has been represented was timely filed.

During calendar year 2005, Taxpayer A decided to recharacterize her Roth IRAs Y, Z and X as traditional IRAs. However, she did not know what was required to do so. During the period April through September, 2005, Taxpayer A contacted a number of Internal Revenue Service ("Service") employees in order to obtain information as to how to recharacterize her Roth IRAs Y, Z and X.. Taxpayer A was eventually advised that recharacterization had to occur no later than the due date of her 2004 Federal Form 1040, including extensions, but it has been asserted by Taxpayer A that she was not advised either how the recharacterization was to be accomplished, or that she could have requested an extension to October 15, 2005, and recharacterize up to that date. Additionally, it has been represented that at least one Service employee advised Taxpayer A that she needed a letter ruling from the Service in order to recharacterize. Acting upon the advice given her by Service employees, Taxpayer A mailed this request for letter ruling to the Service on or about which date

predated October 15, 2005. The letter ruling request was received by the Service several days later.

Taxpayer A has not, as yet, filed an amended calendar year Federal Form 1040 reflecting her intent to recharacterize Roth IRAs Y, Z and X as traditional IRAs. Additionally, as of the date of this ruling request, Taxpayer A had not recharacterized her Roth IRAs Y, Z and X as traditional IRAs.

Based on the foregoing facts and representations, you have requested the following rulings:

1. That, pursuant to sections 301.9100-1 and 301.9100-3 of the Regulations Taxpayer A may make an election under section 1.408A-5 of the Income Tax Regulations (I.T. Regulations) to recharacterize Taxpayer A's Roth IRAs Y, Z and X created during tax year 2004 as traditional IRAs as long as said election(s) to recharacterize is/are made no later than 60 days from the date of issuance of this ruling letter; and
2. That Taxpayer A may after the recharacterization reconvert her transferee traditional IRA(s) to one or more Roth IRAs in calendar year 2006 as long as she meets the requirements of Code section 408A and the regulations promulgated thereunder.

With respect to your request for relief under section 301.9100-3 of the Regulations, Code section 408A(d)(6) and section 1.408A-5 of the I.T. Regulations provide that, except as otherwise provided by the Secretary, a taxpayer may elect to recharacterize an IRA contribution made to one type of IRA as having been made to another type of IRA by making a trustee-to-trustee transfer of the IRA contributions, plus earnings, to the other type of IRA. In a recharacterization, the IRA contribution is treated as having been made to the transferee IRA and not the transferor IRA. Under section 408(d)(6) and section 1.408A-5, this recharacterization election generally must occur on or before the date prescribed by law, including extensions, for filing the taxpayer's Federal Income Tax Return for the year of contribution.

Section 1.408A-5, Question and Answer-6(a) of the I.T. Regulations, describes how a taxpayer makes the election to recharacterize the IRA contribution. To recharacterize an amount to be converted: (1) the taxpayer must notify the trustee for the first IRA and the trustee to the second IRA, that the taxpayer has elected to treat the contribution as having been made to the second IRA, instead of the first IRA, (2) the amount and year of the contribution to the first IRA that is

to be recharacterized (and if the transferee trustee is different from the transferor trustee with specific information that is sufficient to effect the recharacterization), and (3) the trustee must make the transfer.

Section 1.408A-5, Question and Answer-9(a)(1) of the I.T. Regulations provides, in relevant part, that with an exception not pertinent hereto, a person who recharacterizes an amount from a Roth IRA to a traditional IRA may not reconvert that amount to a Roth IRA before the beginning of the taxable year following the taxable year in which the amount was converted to a Roth IRA or, if later, the end of the 30-day period beginning on the date on which the IRA owner transfers the amount from the Roth IRA back to a traditional IRA by means of a recharacterization.

Sections 301.9100-1, 301.9100-2, and 301.9100-3 of the Procedure and Administration Regulations, in general, provide guidance concerning requests for relief submitted to the Service on or after December 31, 1997. Section 301.9100-1(c) of the regulations provides that the Commissioner of the Internal Revenue Service, in his discretion, may grant a reasonable extension of time fixed by a regulation, a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin for making of an election or application for relief in respect of tax under, among others, Subtitle A of the Code.

Section 301.9100-2 of the Regulations lists certain elections for which automatic extensions of time to file are granted. Section 301.9100-3 of the Regulations generally provides guidance with respect to the granting of relief with respect to those elections not referenced in section 301.9100-2. The relief requested in this case is not referenced in section 301.9100-2.

Section 301.9100-3(a) of the Regulations provides the application for relief that fall within section 301.9100-3 will be granted when the taxpayer provides sufficient evidence (including affidavits described in section 301.9100-3(e)) to establish that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief would not prejudice the interests of the government.

Section 301.9100-3(b)(1) of the Regulations provides that a taxpayer will be deemed to have acted reasonably and in good faith (i) if its request for section 301.9100-1 relief is filed before the failure to make a timely election is discovered by the Service; (ii) if the taxpayer inadvertently failed to make the election because of intervening events beyond the taxpayer's control; (iii) if the taxpayer failed to make the election because, after exercising reasonable diligence, the taxpayer was unaware of the necessity for the election; (iv) the taxpayer relied

upon the written advice of the Service, or (v) the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c)(1)(ii) of the Regulations provides that ordinarily the interests of the government will be treated as prejudiced and that ordinarily the Service will not grant relief when tax years that would have been affected by the election had it been timely made are closed by the statute of limitations before the taxpayer's receipt of a ruling granting relief under this section.

Taxpayer A asserts that when she decided to recharacterize Roth IRAs Y, Z and X as traditional IRAs described in Code section 408, she did not know how to do so. Information provided her by the Service was accurate but incomplete. Her request for letter ruling was submitted to the Service prior to October 15, 2005, and it contained sufficient information for the Service to determine Taxpayer A's intentions and to provide her with information sufficient to advise her as to how to recharacterize her Roth IRAs Y, Z and X as traditional IRAs.

Thus, based on the above, we believe that Taxpayer A meets the requirements of clause (ii) of section 301.9100-3(b)(1) of the Regulations for the 2004 tax year. Therefore, Taxpayer A is granted an extension of 60 days as measured from the date of the issuance of this ruling letter to recharacterize her calendar year 2004 contribution to her Roth IRAs Y, Z and X as contributions to Traditional IRAs. Said recharacterized amount cannot exceed the total of Sum 1, Sum 2, and Sum 3.

With respect to your second ruling request, as noted above, section 1.408A-5, Q&A-9(a)(1) of the I.T. Regulations provides, in pertinent part, a 30-day period during which an IRA owner who transfers an amount back to a traditional IRA from a Roth IRA by means of a recharacterization may not reconvert that amount from the transferee traditional IRA to a Roth IRA.

Pursuant to our first ruling, the Service is granting Taxpayer A a period of 60 days as measured from the date of the issuance of our ruling letter to recharacterize her calendar year 2004 contributions to her Roth IRAs as contributions to traditional IRAs. Taxpayer A has indicated that she intends to reconvert amounts in this traditional IRA (or IRAs) to one or more Roth IRAs in calendar year 2006. Since amounts in her traditional IRAs were originally converted to Roth IRAs in 2004, pursuant to the above regulation, she cannot reconvert amounts in the traditional IRAs to Roth IRAs until the end of 30 day

period beginning on the date she recharacterizes amounts in her Roth IRAs Y, Z, and X to traditional IRAs pursuant to our first ruling.

Thus, after Taxpayer A has recharacterized amounts in her Roth IRAs to traditional IRAs pursuant to our first ruling, she must wait 30 days before she is eligible to reconvert the amounts in the transferee traditional IRA(s) to one or more Roth IRAs. Once she has satisfied the 30-day waiting period, the regular rules regarding a reconversion will apply.

In this regard, the Service notes that if Taxpayer A does, in fact, reconvert one or more transferee traditional IRAs into another Roth IRA (or Roth IRAs) and then decides to recharacterize said Roth IRA(s) into another traditional IRA(s), said recharacterization must be accomplished by Taxpayer A no later than due date of her calendar year Federal Income Tax Return (Federal Form 1040) including extensions.

Thus, with respect to your second ruling request, we conclude as follows:

2. That Taxpayer A may, after accomplishing the recharacterizations authorized by our initial ruling, reconvert one or more of her transferee traditional IRAs to one or more Roth IRAs in calendar year 2006 as long as she meets the requirements of Code section 408A and the regulations promulgated thereunder.

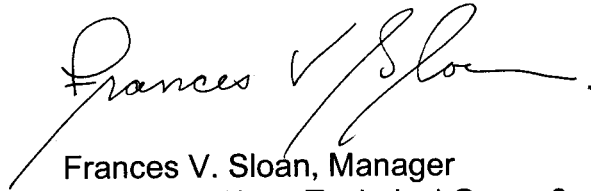
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This ruling is directed only to the taxpayer(s) that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

If you have any questions please contact  
at

, (I.D. # -),

Sincerely yours,

A handwritten signature in cursive script that reads "Frances V. Sloan". The signature is written in black ink and is positioned above the printed name and title.

Frances V. Sloan, Manager  
Employee Plans Technical Group 3

Enclosures:

- Deleted copy of this letter
- Notice of Intention to Disclose, Notice 437