



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201532040

JUN 10 2015

SE: T: EP: RA: T2

Uniform Issue List: 402.00-00

\*\*\*  
\*\*\*  
\*\*\*

**Legend:**

Taxpayer A = \*\*\*

Amount 1 = \*\*\*

Plan X = \*\*\*

Dear \*\*\*:

This is in response to your request, dated August 26, 2014, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(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 on \*\*\*, she received a distribution from Plan X totaling Amount 1. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to the need to care for her terminally ill mother during her hospitalization. Taxpayer A further represents that the distribution from Plan X has not been used for any other purpose and remains in her checking/savings accounts.

On \*\*\*, Taxpayer A took a distribution of Amount 1 from Plan X, intending to roll it over into an individual retirement account ("IRA"). Taxpayer A's mother was placed in a convalescent home and was hospitalized on \*\*\*. Taxpayer A's mother remained hospitalized throughout the remainder of the 60-day rollover period, and died shortly thereafter, on \*\*\*. Due to the critical nature of her mother's condition, Taxpayer A kept vigil at her mother's bedside, spending 12 hours per day at the hospital, 7 days per week, until her mother's passing. Taxpayer A represents that during this time period the

physical and emotional demands on her during her mother's hospitalization prevented her from completing a rollover.

Based on these facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60-day rollover requirement contained in section 402(c)(3) of the Code with respect to the distribution of Amount 1 from Plan X.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An IRA constitutes one form of eligible retirement plan.

Section 402(c)(4)(B) of the Code provides that an eligible rollover distribution shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Code.

Section 402(c)(3)(B) of the Code provides that the Secretary may waive the 60-day requirement under section 402(c)(3)(A) 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 402(c)(3) 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 her assertion that her failure to accomplish a timely rollover was due to the need to care for her terminally ill mother during her hospitalization.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from Plan X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute up to Amount 1 into an IRA or other eligible retirement plan. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount 1 will be considered a rollover contribution within the meaning of section 402(c)(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.

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

If you wish to inquire about this ruling, please contact \*\*\* at \*\*\*. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Sherri M. Edelman, Manager,  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose

cc:

\*\*\*

\*\*\*

\*\*\*

\*\*\*