



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

201428014

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List: 402.00-00

APR 17 2014

XXXXX
XXXXX
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SET:EP:RA:T2

Legend:

Taxpayer = XXXXX
Financial Institution = XXXXX
Amount = XXXXX
Plan = XXXXX

Dear XXXXX:

This is in response to your request dated June 10, 2013, as supplemented by correspondence dated July 23, 2013, August 7, 2013, September 25, 2013 and January 7, 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 represents that she received a distribution from Plan totaling Amount. Taxpayer 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 Taxpayer's medical condition which impaired her ability to accomplish a timely rollover during the 60-day period.

Taxpayer took a distribution of Amount from Plan on July 6, 2011. Taxpayer intended to rollover Amount into an IRA with Financial Institution. However, at the time of the distribution and during the 60-day rollover period, Taxpayer was suffering from medical conditions that impaired her ability to accomplish the rollover within the 60-day timeframe. Taxpayer asserts that as a result of her medical condition, she misunderstood that she deposited Amount into a non-qualified account instead of an

IRA. Clinical documentation supports Taxpayer's assertion that at the time of the relevant 60-day period she was suffering from the above-referenced medical condition.

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 402(c)(3) of the Code with respect to the distribution of Amount.

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) of the Code states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Section 402(c)(4) 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) 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 402(c)(3)(B) 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 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 are consistent with her assertion that her failure to accomplish a timely rollover was caused by her medical condition, which impaired her ability to accomplish a timely rollover.

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 from Plan. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount into an IRA or other eligible retirement plan. Provided all other

201428014

requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount 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 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 ruling is being sent to your authorized representative(s).

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

Sincerely yours,

A handwritten signature in cursive script that reads "Sherri Monis (acting for)".

Jason E. Levine, Manager
Employee Plans Technical Group 2

Enclosures:
Ruling Letter
Notice of Intention to Disclose

cc: XXXXX
XXXXX
XXXXX