



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

JUN 13 2014

201436057

Uniform Issue List: 402.00-00

Legend:

Taxpayer A	=
Plan B	=
Account C	=
Account D	=
Financial Institution E	=
Individual F	=
IRA G	=
Amount 1	=
Amount 2	=
Amount 3	=
Amount 4	=
Amount 5	=

Dear :

This is in response to a request for a private letter ruling dated April 21, 2014, as supplemented by correspondences dated May 15, and 21, 2014, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Internal Revenue Code ("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 of Amount 1 from Plan B. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to his responsibility to care for his mother-in-law, her deteriorating medical condition and subsequent death which impaired his ability to manage his financial affairs.

Taxpayer A participated in Plan B, a qualified plan under section 401(a) of the Code. On August 14, 2013, Taxpayer A received a distribution of Amount 1 from Plan B. This equaled Amount 2 minus Federal taxes withheld of Amount 3. On August 20, 2013, Taxpayer A deposited Amount 1 into Account C, his joint checking account with his spouse. On August 28, 2013, Taxpayer A transferred Amount 4 in Account C to Account D, their savings account.

Taxpayer A represents he intended to rollover a portion of the distribution (Amount 5) into an individual retirement account (IRA) with Financial Institution E. Taxpayer A is the primary caretaker for Individual F, his mother-in-law. Over the last several years, the health of Individual F has declined and it worsened in the period after the distribution. Specifically, during the 60-day rollover period, Individual F became increasingly ill with a serious medical condition. Taxpayer A spent much of his time caring for Individual F who required numerous medical visits due to her medical condition. On October 7, 2013, within the 60-day period, Individual F passed away. Taxpayer A then turned his attention to funeral and estate planning. As a result, Taxpayer A failed to roll over Amount 5 into another IRA within the 60-day rollover deadline. On March 17, 2014, Amount 5 was deposited into IRA G with Financial Institution E. Taxpayer A further represents that Amount 5 has not been used for any other purpose.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60 day rollover requirement in section 402(c)(3) of the Code with respect to the distribution of Amount 5.

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 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).

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under sections 402(c) 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.

Section 401(a)(31) provides the rules for governing "direct transfers of eligible rollover distributions".

Section 1.401(a)(31)-1 of the Income Tax Regulations, Question and Answer-15, provides, in relevant part, that an eligible rollover distribution that is paid to an eligible retirement plan in a direct rollover is a distribution and rollover, and not a transfer of assets and liabilities.

Revenue Procedure 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 the documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover of Amount 5 was due to his responsibility to care for Individual F, her worsening medical condition and subsequent death, which impaired Taxpayer A's ability to manage his financial affairs during the 60-day rollover period.

Therefore, pursuant to section 402(c)(3)(B), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 5 from Plan B. Provided all other requirements of section 402(c) of the Code, except the 60-day requirement, were met with respect to such contribution, the contribution of Amount 5 to IRA G on March 17, 2014, will be considered a rollover contribution within the meaning of section 402(c) of the Code.

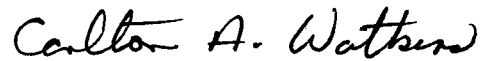
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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.

If you wish to inquire about this ruling, please contact  
(I.D. #                      ), SE:T:EP:RA:T1, at

Sincerely yours,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of this Letter  
Notice of Intention to Disclose, Notice 437