



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

MAY 12 2015

201532042

Uniform Issue List: 402.00-00

SET: EP: RA: T1

Legend:

Taxpayer A =

Plan B =

Bank C =

Account D =

Account E =

Amount 1 =

Amount 2 =

Dear

This is in response to your request dated August 28, 2014, as supplemented by correspondence dated March 12, and March 13, 2015, from your authorized representative, in which you requested 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 she received a distribution from Plan B totaling Amount 1. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) was due to a mistake made by Bank C. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A represents that she was a participant in Plan B administered by Bank C. In 2013 Taxpayer A was advised by a Bank C advisor to transfer her account balance in Plan B to an IRA to be set up by the Bank C advisor. The transfer was to be a direct rollover from one account to the other.

On May 13, 2013, the Bank C advisor completed a transfer of Amount 1 from Plan B to Account D which was intended to be an IRA. However Account D was a non-IRA account. At the beginning of June, 2013, the Bank C advisor recommended the transfer of Amount 2 of the believed IRA Account D to a new IRA at Bank C. On June 5, 2013, Amount 2 was transferred from Account D to a new Account E. However, Account E was also a non-IRA account. The request for relief is accompanied by a letter from Bank C admitting its mistake.

Based on the facts and representations, you requested a ruling that 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.

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.

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 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)(8) of the Code provides that an individual retirement account (IRA) is one type of eligible retirement plan.

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 documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 was caused by an admitted mistake by Bank C which resulted in Amount 1 being deposited into a non-IRA account rather than a traditional IRA account. 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. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 into a rollover IRA. 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 for purposes of sections 402(c)(3) 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.

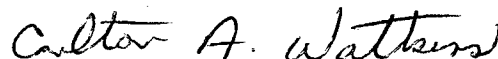
A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact

Please address all correspondence to

SE:T:EP:RA:T1.

Sincerely,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc: