



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

200618027

SE:T:EP:RA:TH

FEB 10 2006

Uniform Issue List: 408.03-00

Legend:

Taxpayer A=

Amount B=

Company C =

Bank E=

Date F=

Date G=

Plan J=

Dear :

This is in response to your request dated , submitted through your authorized representative, for 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, age , represents that received a distribution from Plan J totaling Amount B. Taxpayer A asserts that failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to significant family medical hardships and death in Taxpayer A's family which prevented Taxpayer A from rolling over Amount B within the required 60-day rollover period. Taxpayer A further represents that Amount B has not been used for any other purpose.

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Taxpayer A participated in Plan J maintained by Company C. Company C was experiencing financial difficulties and closed operations in Date F. Approximately five months after the closing, Company C fully funded the retirement accounts of its former employees. In order to protect his investment, on Date G Taxpayer A withdrew Amount B from Plan J and deposited Amount B into an existing savings account that had at Bank E with the intention of rolling over Amount B into an IRA at Bank E. Amount B still is in the savings account. During the 60-day rollover period Taxpayer A encountered several significant medical hardships. Taxpayer A travelled to another state to provide primary care for Taxpayer A's stepdaughter who underwent three surgeries for cancer. Also, Taxpayer A's stepdaughter became seriously ill and Taxpayer A and Taxpayer A assisted in care until Taxpayer A passed away. Due to the full-time care giving Taxpayer A was providing family Taxpayer A did not focus on the need to rollover Amount B within the 60-day rollover period.

Based on the above facts and representations, you request that the Service waive the 60-day rollover requirement with respect to Amount B.

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 requires that an eligible rollover distribution from a qualified retirement plan must be transferred to an eligible retirement plan no later than the 60th day following the day of receipt in order to avoid having to include that distribution in the distributee's gross income for that year.

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, 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

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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 by Taxpayer A is consistent with assertion that failure to accomplish a timely rollover was caused by family medical hardships and death in Taxpayer A's family.

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 B. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount B into a rollover IRA. Provided all other requirements of section 402(c) of the Code, except the 60-day requirement, are met with respect to such contributions, this amount will be considered a rollover contribution within the meaning of section 402(c) 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 pursuant to a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact _____, at _____.
Please address all correspondence to _____.

Sincerely yours,

for */s/ Ada Perry*, Manager
Employee Plans Technical Group 4

Enclosures:

Deleted copy of ruling letter

Notice of Intention to Disclose