



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

201335028

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUN 06 2013

Uniform Issue List: 402.00-00

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T:EP:RA:TI

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXX
Plan B = XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
Financial Institution C = XXXXXXXXXXXXXXXXXXXX
Financial Institution D = XXXXXXXXXXXXXXXXXXXX
IRA E = XXXXXXXXXXXXXXXXXXXX
Amount 1 = XXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXX:

This letter is in response to a request for a letter ruling dated January 31, 2013, as supplemented by additional correspondence dated April 12, 2013, 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 from Plan B totaling Amount 1. Taxpayer A asserts that his failure to accomplish a rollover of Amount 2, within the 60-day period prescribed by section 402(c)(3), was due to a medical condition that occurred within the 60-day rollover period.

Taxpayer A maintained Plan B, an eligible retirement plan, which was maintained by Financial Institution C. On November 1, 2012, Taxpayer A received a distribution of Amount 1 from Plan B with the intention to rollover the distribution within the 60-day rollover period. On November 1, 2012, within the 60-day rollover period, Taxpayer A suffered a medical injury which necessitated

hospitalization and he remained hospitalized until December 31, 2001. Taxpayer A asserts that he was unable to move or take care of any of his financial affairs while undergoing medical treatment. Taxpayer A has submitted medical records including a letter from his physician that documents his state of mental and physical health during the period. On January 1, 2002, after recovering from the medical condition, and after the expiration of the 60-day period, Taxpayer A completed the rollover of Amount 1 with Financial Institution D, depositing Amount 1 into IRA E. Taxpayer A asserts that Amount 1 has not been used for any other purpose.

Based on the above facts and representations, you request that the Internal Revenue Service ("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. An IRA constitutes one form of eligible retirement plan.

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.

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 sections 408(d)(3)(I) and 402(c)(3)(B) 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 1 was due to a medical injury that occurred during the 60-day rollover period.

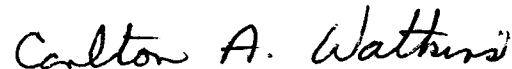
Therefore, pursuant to section 402(c)(3)(B), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from Plan B. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, were met with respect to Taxpayer A's contribution of Amount 1 into IRA E, on January , 20 , such contribution will be considered a rollover contribution within the meaning of section 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.

If you wish to inquire about this ruling, please contact _____
(Identification No. XXXXXXXXXXXXX) at (XXX) XXX-XXXX. Please address
all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

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Notice of Intention to Disclose, Notice 437