



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201420026

FEB 20 2014

U.I.L. 402.08-00

SE:T:EP:RA:T3

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Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXXX

Individual B = XXXXXXXXXXXXXXXXXXXXX

Plan X = XXXXXXXXXXXXXXXXXXXXX

Company N = XXXXXXXXXXXXXXXXXXXXX

Amount A = XXXXXXXXXXXXXXXXXXXXX

Amount B = XXXXXXXXXXXXXXXXXXXXX

Amount C = XXXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxxx:

This is in response to a letter dated June 25, 2013, as supplemented by correspondence dated July 31, 2013, and August 1, 2013, 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 presentations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that on January 17, 2012, he received a distribution from Plan X totaling Amount A of which Amount B was a required minimum distribution (RMD) for the 2012 taxable year and Amount C was due to a miscalculation by his financial advisor. 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 the mistake made by his financial advisor, Individual B of Company N.

In early 2012, Taxpayer A met with Individual B to ascertain Taxpayer A's required minimum distribution from Plan X and Taxpayer A's individual retirement account with Company N. Individual B calculated Taxpayer A's required minimum distribution to be Amount A from Plan X. Taxpayer A relied on this advice and took a distribution from Plan X totaling Amount A.

In November 2012, Individual B realized that he had made an error in calculating the required minimum distribution from Plan X. Taxpayer A was then told on November 29, 2012, that Amount B, not Amount A, should have been distributed from Plan X.

Upon learning of the error, Taxpayer A returned Amount C to Plan X on June 7, 2013.

Documentation submitted shows that Individual B acknowledged that he incorrectly calculated the 2012 required minimum distribution from Plan X and he did not realize the error and did not notify Taxpayer A until November 2012 which was after the expiration of the 60-day rollover period.

Based on the above facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement with respect to the distribution of Amount C.

Section 402(c)(1) 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 included 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) of the Code.

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

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 A is consistent with his assertion that his failure to accomplish a timely rollover was due to a mistake made by his financial advisor, Individual B of Company N.

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 C from Plan X. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, were met with respect to the contribution of Amount C to Plan X on June 7, 2013, such contribution 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.

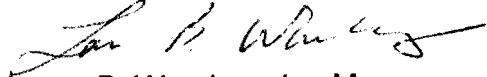
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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 is being 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 xxxxxxxxxxxxxxxxxxxxxx,
SE:T:EP:RA:T3, at xxxxxxxxxxxxxxxxxxxxxx.

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of letter ruling
Notice of Intention to Disclose

Cc: xxxxxxxxxxxxxxxxxxxxxx