



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201430028

APR 29 2014

Uniform Issue List: 402.03-00

SET: EP: RA: T1

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Legend

Taxpayer A	=	XXXXXXXXXXXXXXXXXX
Plan B	=	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX
IRA C	=	XXXXXXXXXXXXXXXXXX
Company D	=	XXXXXXXXXXXXXXXXXX
Company E	=	XXXXXXXXXXXXXXXXXX
Financial Institution F	=	XXXXXXXXXXXXXXXXXX
Financial Institution G	=	XXXXXXXXXXXXXXXXXX
Amount 1	=	XXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXX:

This is in response to your request dated November 20, 2013, submitted 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 representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that a distribution equal to Amount 1 was made from Plan B, which was maintained by Company D. 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 fact that he never received notice regarding Company

D's intent to distribute Amount 1 nor did Taxpayer A receive the initial distribution check.

Taxpayer A represents that he participated in Plan B maintained by Company D. Company D was acquired by Company E on May 9, 2009. In 2011, Company D attempted to contact Taxpayer A to inform him that Plan B was terminating and to provide Taxpayer A with information about the distribution options available. Company D sent the information to an address that had not been used by Taxpayer A in almost four years.

After not receiving a response from Taxpayer A, Company D issued a check for Amount 1 and sent it to the previous address. Taxpayer A had no knowledge of the check being mailed to him until he received a Form 1099-R for tax year 2011 e-mailed from Financial Institution F. Taxpayer A contacted Financial Institution F and a representative of Financial Institution F was able to ascertain that the original check had never been processed or cashed. A replacement check for Amount 1, dated March 23, 2012, was issued to Taxpayer A.

Taxpayer A deposited Amount 1 on March 28, 2012 into IRA C held by Financial Institution G. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Based on the above facts and representations, Taxpayer A requests that the Service waive the 60-day rollover requirement contained in section 402(c)(3)(A) of the Code with respect to the distribution of Amount 1 from Plan 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) 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)(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.

Section 402(c)(4) defines "eligible rollover distribution" as any distribution to an employee of all or any portion of the balance to the credit of an employee in a qualified trust except the following distributions:

- A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made --
 - i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or
 - ii) for a specified period of 10 years or more, and
- B) any distribution to the extent the distribution is required under section 401(a)(9), and
- C) any distribution which is made upon hardship of the employee.

Section 402(c)(8) defines eligible retirement plan as (i) an individual retirement account described in section 408(a); (ii) an individual retirement annuity described in section 408(b) (other than an endowment contract); (iii) a qualified trust; (iv) an annuity plan described in section 403(a); (v) an eligible deferred compensation plan described in section 457(b) maintained by an eligible employer as described in section 457(e)(1)(A); and (vi) an annuity contract described in section 403(b).

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)(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 and documentation submitted by Taxpayer A is consistent with his assertion that the failure to accomplish a timely rollover of Amount 1 was due to the fact that he never received the original distribution check of Amount 1 issued by Company D. Therefore, pursuant to section 402(c)(3) of the Code, 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, are met with respect to such contribution, the contribution of Amount 1 to IRA C will be considered a valid 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.

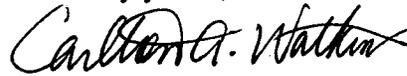
201430028

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 representatives pursuant to a Power of Attorney on file in this office.

If you wish to inquire about this ruling, please contact XXXXXXXXXXXX (ID XXXXXXXXXXX) 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:
Notice of Intention to Disclose
Deleted copy of this letter