



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

201440025

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 10 2014

Uniform Issue List: 402.00-00

SE:T:EP:RA:T2

Legend

Taxpayer =

Spouse =

Plan =

Financial Institution =

Amount =

Dear :

This is in response to a letter dated June 14, 2013, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Code.

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer received a distribution from Plan of Amount. Taxpayer asserts that her failure to accomplish a rollover of Amount within the 60-day period prescribed by section 402(c)(3) of the Code was due to a severe medical condition that has caused a variety of debilitating effects including memory loss. Taxpayer further represents that Amount has not been used for any other purpose.

Taxpayer's husband, Spouse, was a participant in Plan. Spouse died in 2007. Taxpayer was named as beneficiary of Plan upon Spouse's death.

Spouse's account balance of Amount was distributed from Plan to Taxpayer in December 2012. Taxpayer, who suffers from a severe medical condition that has caused a variety of debilitating effects including memory loss, placed the unopened letter containing the check in her drawer. It was discovered after the 60-day period by a family member who deposited it into Taxpayer's checking account, where it remains unused.

Based on the facts and representations, you request a ruling 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 from Plan.

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)(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)(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.

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, including a written statement from her physician, is consistent with her assertion that her failure to

accomplish a timely rollover was due to a severe medical condition that has caused a variety of debilitating effects including memory loss.

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 from Plan. Taxpayer is granted a period starting with the distribution of Amount from Plan and ending 60-days from the issuance of this ruling letter to contribute Amount 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 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.

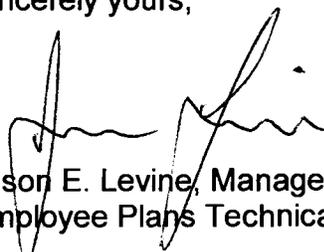
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

If you have any questions, please contact
Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Jason E. Levine, Manager,
Employee Plans Technical Group 2

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: