



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201440032

JUL - 1 2014

Uniform Issue List: 402.00-00

SE: T: EP: RA: T2

XXXXX
XXXXX
XXXXX

Legend:

Taxpayer	=	XXXXX
Financial Institution	=	XXXXX
Amount A	=	XXXXX
Amount B	=	XXXXX
Plan	=	XXXXX XXXXX

Dear XXXXX:

This is in response to your request dated June 1, 2013, as supplemented by correspondence dated October 7, 2013, October 8, 2013, March 3, 2014 and March 13, 2014, 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 representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer represents that she received distributions from Plan totaling Amount A. Taxpayer asserts that her failure to accomplish a rollover of Amount B, a portion of Amount A within the 60-day period prescribed by section 402(c)(3) of the Code was due to Taxpayer's reliance upon incorrect advice provided by a representative of Plan. Taxpayer further represents that Amount B has not been used for any other purpose.

Taxpayer's former husband is a participant in Plan. As a result of a divorce settlement, Taxpayer was entitled to receive a distribution from Plan, which was made

on October 2, 2012, and October 3, 2012, totaling Amount A. Taxpayer represents that she intended to complete a timely rollover of Amount B to an IRA with Financial Institution. However, Taxpayer was misinformed by a representative of Plan about the length of time that Taxpayer had to complete her rollover. Relying upon this advice, Taxpayer deposited Amount B into an IRA with Financial Institution, within the length of time conveyed to her by the Plan representative, but after her 60-day rollover period expired.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement contained in section 402(c)(3) of the Code with respect to the distribution of Amount.

Section 7701(j)(1)(A) of the Code provides that Plan's trust shall be treated as a trust described in section 401(a), and is exempt from taxation under section 501(a).

Section 7701(j)(1)(B) of the Code provides that any contribution to, or distribution from the Plan's trust shall be treated in the same manner as contributions to or distributions from a trust described in section 401(a).

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, 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 an 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) (related to required minimum distributions).

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.

Section 1.402(c)-2, Q&A-12 provides that the eligible rollover distribution rules also apply to distributions to a spousal distributee (such as a former spouse who is an alternate payee under a qualified domestic relations order).

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 is consistent with her assertion that her failure to accomplish a timely rollover was caused Taxpayer's reliance upon incorrect advice provided by a representative of Plan.

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 from Plan. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount B into a Rollover IRA or another qualified plan. Provided all other requirements of section 402(c)(3), except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 402(c)(3).

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.

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

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 XXXXX XXXX at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,

Handwritten signature of Thomas C. Meyer in cursive, with "(A-7126 FOL)" written in parentheses to the right.

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

Enclosures:

- Deleted copy of ruling letter
- Notice of Intention to Disclose

cc:

- XXXXX
- XXXXX
- XXXXX