



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201521022

FEB 25 2015

Uniform Issue List: 402.08-00

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Legend

Taxpayer =

Plan A =

Plan B =

Amount A =

Amount B =

Custodian =

Financial Institution =

Financial Advisor D =

IRA =

Dear

This is in response to a letter dated June 19, 2013, as supplemented by correspondence dated June 30, 2014, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3)(A) 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 a distribution from Plan A of Amount A and a distribution from Plan B of Amount B. Taxpayer asserts that her failure to accomplish a rollover of Amounts A and B within the 60-day period prescribed by section 402(c)(3) of the Code was due to an error committed by Custodian that was not discovered until after the 60-day period had expired. Taxpayer further represents that Amounts A and B have not been used for any other purpose.

On November 11, 2012, Taxpayer requested paperwork from Plans A and B to directly rollover Amounts A and B from Plans A and B to IRA maintained by Financial Institution. Taxpayer has provided documentation from Custodian that acknowledges Taxpayer's request for a transfer payout annuity when Taxpayer's intention was to elect a rollover distribution option with the proceeds being directed to Financial Institution. Instead of sending paperwork for a rollover, Financial Institution erroneously prepared the request as a transfer annuity payout which resulted in the erroneous distribution of Amounts A and B during year 2012.

After consultations in March 2013, between Taxpayer's financial advisor, Financial Advisor D, and Custodian, Custodian agreed to receive Taxpayer's personal checks written on April 22, 2013, to reverse the erroneous distributions of Amounts A and B and accept the checks as a redeposit into Plans A and B in May 2013. Custodian acknowledged receipt of Taxpayer's personal checks and processed the direct rollover of Amounts A and B with Financial Institution.

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 from Plan A of Amount A and the distribution from Plan B of Amount 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 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 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 401(a)(31) provides the rules governing "direct transfers of eligible rollover distributions."

Section 1.401(a)(31)-1, Q&A-15, of the Federal Income Tax Regulations (the "regulations"), 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 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 of Amount A from Plan A and Amount B from Plan B was due to an error committed by Custodian that was not discovered until after the 60-day period had expired.

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 from Plan A of Amount A and the distribution from Plan B of Amount B. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, were met the redeposit of Amounts A and B to Plans A and B, respectively, followed by the direct rollover to IRA with Financial Institution C in May 2013 will be considered rollover contributions within the meaning of section 402(c)(3) of the Code.

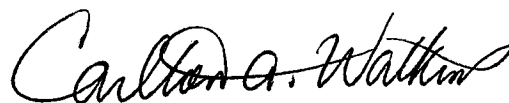
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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.

If you have any questions, please contact  
Please address all correspondence to  
SE:T:EP:RA:T1.

Sincerely yours,

A handwritten signature in cursive script that reads "Carlton A. Watkins". The signature is written in black ink and is positioned above the printed name and title.

Carlton Watkins, Manager,  
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of Ruling Letter  
Notice of Intention to Disclose