



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

201524027

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

MAR 16 2015

Uniform Issue List: 402.08-00, 403.05-00

SET: EP: RA: T1

Legend:

Taxpayer A =  
403(b) Annuity B =  
Financial Institution C =  
Bank D =  
Roth IRA E =  
Amount 1 =

Dear

This is in response to a letter dated August 7, 2014, from 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 ("Code"), as applicable to an annuity described in Code sections 403(b).

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

Taxpayer A represents that she received a distribution of 403(b) Annuity B totaling Amount 1. Taxpayer A asserts that her failure to accomplish a rollover of Amount 1, within the 60-day period prescribed by section 402(c)(3), and made applicable to her situation pursuant to Code section 403(b)(8), was due to a mistake by Bank D. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A maintained 403(b) Annuity B, a qualified retirement annuity with Financial Institution C. In 2008, Taxpayer A was concerned with the financial stability of Financial Institution C and decided to terminate the 403(b) annuity and rollover the proceeds to into an IRA with Bank D. On October 9, 2008, Taxpayer A met with a representative of Bank D and, with the assistance of the representative, completed a "Rollover/Transfer Out Form" for Financial Institution C. The Form clearly indicated Taxpayer A's intention to rollover the proceeds into a traditional IRA with Bank D. On October 20, 2008, Financial Institution C transferred Amount 1 to Bank D and on October 23, the representative established a five year IRA CD. However, instead of placing the Amount 1 into a traditional IRA established by Taxpayer A, the representative linked Amount 1 to Taxpayer A's existing Roth IRA E. The mistake was discovered in 2013 when the CD was maturing and the representative was assisting Taxpayer A with another matter. The request for relief is accompanied by an affidavit from the representative of Bank D acknowledging the mistake.

Based on the facts and representations, a ruling has been requested that the Internal Revenue Service waive the 60 day rollover requirement contained in section 402(c)(3) of the Code with respect to the distribution of Amount 1.

Section 403(a)(5) of the Code provides that the rules of section 402(c)(2) through (7) shall apply for the purposes of section 403(b)(8).

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 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. 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

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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 her assertion that her failure to accomplish a timely rollover of Amount 1 was caused by a mistake by Bank D which resulted in Amount 1 being deposited into a Roth-IRA account rather than a traditional IRA. 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 1. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 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 1 will be considered a rollover contribution for purposes of sections 402(c)(3) and 403(b)(8) 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.

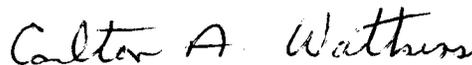
We note that any earnings associated with Amount 1 that accumulated in Roth IRA E since 2008 must be removed from Roth IRA E.

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 has been sent to your authorized representative in accordance with a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact  
at . Please address all correspondence to  
SE:T:EP:RA:T1.

Sincerely,



Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose

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CC: