



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

201603043

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

OCT 21 2015

**Uniform Issue List: 402.00-00**

T: EP: RA: TR

**Legend:**

Taxpayer A =

Plan B =

Financial Institution C =

IRA D =

Amount 1 =

Amount 2 =

Amount 3 =

Dear

This is in response to your request, dated May 18, 2015, 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 (the "Code").

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

Taxpayer A represents that he received a distribution of Amount 1 from Plan B. 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 an error made by Financial Institution C. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A participated in Plan B. On June 1, 2011, Taxpayer A received a distribution of Amount 1 intending to complete a direct rollover to an IRA with Financial Institution C. The distribution received by Taxpayer A was in the form of a check made payable to "Financial Institution C F/B/O Taxpayer A. The check stub indicated, as the IRS distribution code, Code "G", indicating a direct rollover. Taxpayer A indicated on the front of the check the account number of his IRA with Financial Institution C. Instead of depositing Amount 1 into Taxpayer A's IRA, Financial Institution C deposited Amount 1 in a non-IRA account. The submission is accompanied by a letter, dated November 28, 2014, from Financial Institution C admitting the error. Subsequently, on May 4, 2015, Financial Institution C transferred Amount 2 to IRA D. Amount 2 was the value of the Amount 1 investment on May 4, 2015.

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 1.

Section 402(c)(1) 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)(3)(A) 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 A is consistent with his assertion that his failure to accomplish a timely rollover was caused by an error by Financial Institution C which prevented him from accomplishing the rollover during the 60-day rollover period.

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 from Plan B. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, were met with respect to the transfer of Amount 2 into IRA D, on May 4, 2015, such contribution will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code. Taxpayer A is also granted a period of 60 days from the issuance of this ruling letter to contribute up to Amount 3 (Amount 1 minus Amount 2) 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, the amount transferred (up to Amount 3) will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

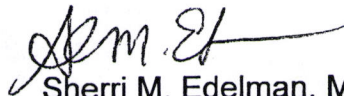
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

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.

A copy of this letter ruling has been sent to your authorized representative pursuant to 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:T2.

Sincerely yours,



Sherri M. Edelman, Manager,  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose

cc: .