



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

201639020

JUN 29 2016

Uniform Issue List: 408.03-00

SE: T: EP: RA: T3

Legend:

Taxpayer A =

Decedent B =

Plan X =

Amount C =

Amount D =

Amount E =

Bank F =

Financial Institution G =

IRA Y =

Dear

This is in response to your letter, dated September 10, 2015, as supplemented by correspondence dated May 6, 2016, 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 ("Code").

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

Taxpayer A represents that Decedent B received a distribution from Plan X totaling Amount C. Taxpayer A asserts that Decedent B's failure to complete a rollover of Amount C within the 60-day period prescribed by section 402(c)(3) of the Internal Revenue Code ("Code"), was due to the effects of his illness and death during the 60-day period.

Decedent B suffered a stroke on March 17, 2014, and another stroke on May 5, 2014. The administrator of Plan X made a total distribution of Amount C from Plan X on May 5, 2014, and wired it into Taxpayer A and Decedent B's joint checking account in Bank F. Submission of Exhibit G shows that Decedent B attempted to establish a rollover IRA account on May 16, 2014, with Financial Institution G. On June 14, 2014, within the 60-day rollover period, Decedent B died. Prior to his death, Decedent B handled his and Taxpayer A's finances. Taxpayer A was unaware of the need to make a rollover or of the tax issues involved in the distribution of Amount C. Taxpayer A used Amount D for personal purposes and on June 16, 2014, transferred Amount E into her savings account with Bank F.

Taxpayer A received professional advice and on December 11, 2014, transferred Amount E into IRA Y with Financial Institution G, established in the name of Taxpayer A.

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

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 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.

Revenue Procedure 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 her assertion that Decedent B's failure to accomplish a timely rollover of Amount C was due to the effects of his illness and death during the 60-day 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 E from Plan X. Provided all other requirements of section 402(c) of the Code, except the 60-day requirement, are met with respect to such contribution of Amount E to IRA Y, the contribution of Amount E 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 408(a)(6) 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.

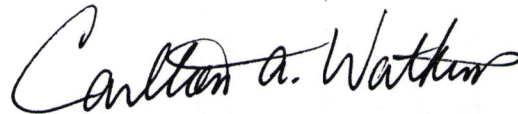
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This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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
Please address
all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

CC: