



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201644024

AUG 03 2016

Uniform Issue List: 402.00-00

SE:T:EP:RA:T1

Legend:

Taxpayer A =

Plan X =

IRA Y =

Insurance Company N =

Insurance Company M =

Amount B =

Credit Union C =

Dear

This is in response to your letter dated November 19, 2015, as supplemented by correspondence dated June 9, 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 he received a distribution from Plan X totaling Amount B. Taxpayer A asserts that his failure to complete a rollover of Amount B within the 60-day period prescribed by section 402(c)(3) of the Internal Revenue Code ("Code"), was due to the failure of Insurance Company N to make a direct rollover of Amount B into IRA Y, as requested by Taxpayer A.

Taxpayer A represents that on May 1, 2015, his employer implemented a reduction in force and terminated Taxpayer A's employment. On July 22, 2015, Taxpayer A opened IRA Y to receive his Plan X rollover funds with Insurance Company N. On August 20, 2015, Taxpayer A completed a withdrawal request with Insurance Company N to directly rollover his Plan X account balance into his recently established IRA Y with Insurance Company M. However, on September 14, 2015, Insurance Company N transferred Amount B into Taxpayer A's checking account at Credit Union C instead of IRA Y, as specified by Taxpayer A's written instructions. On November 17, 2015, four days after the end of the 60-day rollover period, Amount B was transferred from Credit Union C into IRA Y.

Based on the above documentation 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 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 (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.



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).

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 his assertion that his failure to accomplish a timely rollover of Amount B was due to the failure of Insurance Company N to make a direct rollover of Amount B into IRA Y, as requested by Taxpayer A.

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. Provided all other requirements of section 402(c) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount B into IRA Y will be considered a rollover contribution within the meaning of section 402(c).

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.

A copy of this letter is being sent to your authorized representative pursuant to a power of attorney on file in this office.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Carlton A. Watkins".

Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

CC: