



Department of the Treasury
 Internal Revenue Service
 Tax Exempt and Government Entities
 Employee Plans

February 9, 2022

Number: 202218028
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Uniform Issue List: 408.03-00
 402.00-00

Legend

Taxpayer A

Plan B =

=

IRA C

=

Financial Institution D =

Amount 1 =

Amount 2 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This is in response to your letter dated October 12, 2021, as supplemented by correspondence dated February 2, 2022, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in sections 402(c) and 408(d)(3) of the Internal Revenue Code (the "Code").

You submitted, under penalties of perjury, the following facts and representations in support of your ruling request.

Taxpayer A represents that she received a distribution from her 401(k) plan, Plan B, equal to Amount 1. Taxpayer A also represents that she received a distribution from IRA C, equal to Amount 2. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by sections 402(c) and 408(d)(3) of the Code was due to a serious medical condition that impaired her ability to manage her financial affairs and accomplish timely rollovers.

Taxpayer A suffers from a serious health disorder that was first diagnosed in 20 . Over the years, Taxpayer A has been hospitalized several times for her condition. Taxpayer A's spouse managed Taxpayer A's finances until he passed away in 20 . The loss of her spouse compounded Taxpayer A's mental health struggles and, in 20 , Taxpayer A withdrew from the workforce due to her declining health.

Plan B and IRA C are maintained by Financial Institution D on behalf of Taxpayer A. On Date 1, Taxpayer A withdrew Amount 2 from IRA C. On Date 2, soon after she withdrew Amount 2, Taxpayer A was again hospitalized. On Date 3, Taxpayer A withdrew Amount 1 from Plan B. By Date 4, after the expiration of the 60-day period, Taxpayer A had recovered enough from her illness to ask for help with her finances and submit this ruling request. Taxpayer A provided medical and other documentation in support of this request.

Based on the above facts and representations, Taxpayer A requests that the Service waive the 60-day rollover requirement under sections 402(c) and 408(d)(3) of the Code with respect to the distribution of Amount 1 from Plan B and the distribution of Amount 2 from IRA C, respectively.

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 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.

Section 408(a) of the Code defines an individual retirement account to mean a trust created or organized in the United States and requires that the trustee be a bank or an approved non-bank trustee.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) of the Code provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money or any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that the rollover provisions of section 408(d)(3) do not apply to any amount received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA that was not includible in gross income because of the application of the rollover provisions in section 408(d)(3).

Section 408(d)(3)(I) of the Code provides that the Secretary of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) 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.

Section 3.02 of Revenue Procedure 2003-16, 2003-4 I.R.B. 359 ("Rev. Proc. 2003-16"), provides that the Internal Revenue Service (the "Service") will issue a ruling waiving the 60-day rollover requirement in cases 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 taxpayer. In determining whether to grant a waiver of the 60-day rollover requirement pursuant to sections 402(c)(3)(B) and 408(d)(3)(I) 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 are consistent with her assertion that the failure to accomplish a rollover within the 60-day period was due to a serious medical condition that impaired her ability to manage her financial affairs and accomplish timely rollovers.

Therefore, pursuant to sections 402(c)(3)(B) and 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distributions of Amount 1 from Plan B and Amount 2 from IRA C. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 and Amount 2 into an IRA or other eligible retirement plan. Provided all other requirements of sections 402(c)(3) and 408(d)(3), except the 60-day requirement, are met with respect to such contributions, the contributions of Amount 1 and Amount 2 to an IRA or other eligible retirement plan will be considered a valid rollover contribution within the meaning of sections 402(c)(3) and 408(d)(3), respectively.

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.

Pursuant to a power of attorney on file with this office, copies of this letter ruling are being sent to your authorized representative.

If you wish to inquire about this ruling, please contact _____ at _____.
Please address all correspondence to _____.

Sincerely,

Sherri M. Edelman, Manager
Employee Plans Technical Group 1

Enclosures:
Notice of Intention to Disclose
Deleted copy of this letter

cc: