



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

March 11, 2024

Release Number: 202423009
Release Date: 6/7/2024
Uniform Issue List:
402.08-00

Legend:

Taxpayer A =
Roth IRA X =
Plan B =
Amount 1 =
Financial Institution C =
Date 1: =
Date 2 =
Year 1 =

Dear :

This is in response to your letters dated _____, and _____, 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 ("the Code").

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

Taxpayer A represents that she intended to transfer Amount 1 from Plan B to a traditional IRA with Financial Institution C within the 60-day period. Taxpayer A asserts that her failure to accomplish a transfer within the 60-day period prescribed by section 402(c)(3) of the Code was due to an error committed by Financial Institution C.

Taxpayer A participated in Plan B. During Year 1, Taxpayer A requested a trustee-to-trustee transfer of Amount 1 from Plan B to a traditional IRA. Taxpayer A was under the impression that a

traditional IRA was established by Financial Institution C. However, Taxpayer A discovered on Date 2, when she received a Form 5498, that Amount 1 was deposited into Roth IRA X.

Based on the facts and representations, you request a ruling 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 402(c) of the Code provides that if any portion of the balance to the credit of any 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 included in gross income for the taxable year in which paid. Section 402(c)(3)(A) of the Code states that such transfer 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. 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 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 does not demonstrate that Taxpayer A failed to accomplish a rollover of Amount 1 due to any of the factors cited in Rev. Proc. 2003-16 or that financial institution error caused Taxpayer A to miss the 60-day rollover period. Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby declines to waive the 60-day rollover requirement with respect to the distribution of Amount 1 from Plan B.

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 is being sent to your authorized representative pursuant to a Power of Attorney on file with this office.

If you have any questions, please contact by phone at.

Sincerely,

Frederick L. Parker

Frederick L. Parker, Manager
Employee Plans Technical Group 1

Enclosure(s):

Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: