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Date 4 = XXXXXXXXXXXXXXXXXXXXXXX

Dear XXXXXX:

This is in response to your request dated June 28, 2007, as supplemented by correspondence dated July 23, July 24, August 1, September 14, September 24, September 28, October 8, October 10, and October 31, 2007, submitted by your authorized representative in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3)(A) of the Internal Revenue Code ("the Code"), as applicable to an annuity described in Code section 403(b).

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

Taxpayer A, age 54, represents that distributions from Account K and Account L, tax deferred annuity retirement accounts described in Code section 403(b), were intended to be directly rolled over into an Individual Retirement Account (IRA) described in Code section 408(a). Taxpayer A asserts that her failure to accomplish rollovers within the 60-day period prescribed by section 402(c)(3)(A), and applicable to her situation pursuant to Code section 403(b)(8)(B), was due to mistakes made by Financial Advisor J and Bank C, which led to Amount D and Amount E being placed in Account M, a non-IRA money market account. Taxpayer A further represents that Amount D and Amount E are currently in Account M with Bank C and have not been used for any purpose.

On Date 1, Taxpayer A attempted to establish a traditional IRA at Company H with funds distributed from three separate accounts within Plan X, including Account K and Account L. Plan X is a retirement plan maintained by Employer B, the former employer of Taxpayer A. Taxpayer A completed a form requesting a trustee-to-trustee rollover from these accounts to a traditional IRA with Company H. Financial Advisor J, Taxpayer A's financial advisor, assisted Taxpayer A in completing the form and named Bank C as Payee rather than Company H, the intended payee. On Date 2, Bank C contacted Financial Advisor J and returned one of the three checks he had sent to Bank C, alerting him to the error. On Date 3, Taxpayer A wrote a letter to Company A explaining that the disbursement checks for the three accounts had been issued to an incorrect payee and requested that they be reissued to Company H. The check that was returned was reissued to Company H and was deposited in an IRA. The other two checks representing distributions from Account K and Account L, were not returned but were deposited by Bank C into Account M. Taxpayer A represents that she assumed that after sending the letter to Company A the proper correction had been made and that Amount D and Amount E had been deposited in an IRA. Further, Taxpayer A received Forms 1099-R from Company A, indicating that valid rollovers had occurred. On Date 4, Taxpayer A discovered that Amount D and Amount E had been deposited in a non-IRA account at Bank

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C. Amount D and Amount E remain in Account M at Bank C and have not been used.

Based upon the foregoing facts and representations, Taxpayer A requests that the Service waive the 60-day rollover requirement with respect to the distribution of Amount D and Amount E.

With respect to your ruling request, section 402(a) of the Code provides, generally that, except as otherwise provided in section 402, any amount actually distributed from a trust described in section 401(a) which is exempt from tax under section 501(a) of the Code shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 of the Code (relating to annuities).

Section 402(c) of the Code provides rules governing rollovers of amounts from exempt trusts to eligible retirement plans including IRAs.

Section 402(c)(1) of the Code provides, in general, that if any portion of an eligible rollover distribution from a qualified trust is transferred to an eligible retirement plan, the portion of the distribution so transferred shall not be includible in gross income in the taxable year in which paid.

Code section 402(c)(3)(A) provides that, except as provided in subparagraph (B), paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

Section 402(c)(3)(B) of the Code provides that the Secretary may waive the 60-day requirement under section 402(c)(3)(A) of the Code 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)(8) of the Code defines an "eligible retirement plan" as (i) an individual retirement account described in section 408(a) of the Code, (ii) an individual retirement annuity described in section 408(b) of the Code (other than an endowment contract), (iii) a qualified trust, (iv) an annuity plan described in section 403(a) of the Code, (v) an eligible deferred compensation plan described in section 457(b) of the Code which is maintained by an eligible employer described in section 457(e)(1)(A) of the Code, and (vi) an annuity contract described in section 403(b) of the Code.

Section 403(b)(1)(E) of the Code ("flush" language) provides, in relevant part, that any amount distributed out of an annuity contract described in section 403(b)(1) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, in the manner provided under section 72 of the Code.

Section 403(b)(8)(A) of the Code provides that if any portion of the balance to the credit of an employee in a 403(b) annuity contract is paid to him in an eligible rollover distribution (within the meaning of section 402(c)(4)), and the employee

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transfers any portion of the distribution to an eligible retirement plan described in section 402(c)(8)(B), then the distribution to the extent transferred shall not be includible in gross income for the taxable year in which it was distributed.

Section 403(b)(8)(B) of the Code provides that rules similar to the rules of paragraphs (2) through (7) and (9) of section 402(c) shall apply for purposes of section 403(b)(8)(A).

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)(B), 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 on behalf of Taxpayer A is consistent with her assertion that the failure to accomplish a timely rollover was caused by an error on the part of Financial Advisor J in that he failed to properly complete the rollover application forms which led to Amount D and Amount E being placed into a non-IRA account by Bank C. The information presented by Taxpayer A is consistent with her assertion that she attempted to rollover Amount D and Amount E.

Therefore, pursuant to Code section 402(c)(3)(B), and 403(b)(8) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount D and Amount E. As a result, Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount D and Amount E into a Rollover IRA. Provided all other requirements of section 403(b)(8) of the Code (which incorporates the requirements of Code section 402(c)), except the 60-day requirement, are met with respect to such contribution, the contribution of Amount D and Amount E into an IRA (except as noted below) will be considered a rollover contribution within the meaning of section 403(b)(8) of the Code.

No opinion is expressed as to the tax treatment of the transactions described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This ruling 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 by others as precedent.

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

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If you have any questions regarding this letter, please contact XXXXXXXXX, ID Number XXXXXX, SE:T:EP:RA:T4 at XXXXXXXXXX.

Sincerely,



Donzell Littlejohn, Manager
Employee Plans Technical Group 4

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