



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

201543022

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

U.I.L 402.08-00

JUL 29 2015

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XXXXXXXXXXXXXXXXXX

T: EP: RA: T3

Legend:

- Taxpayer A = XXXXXXXXXXXXXXXX
- Plan X = XXXXXXXXXXXXXXXX
- Company C = XXXXXXXXXXXXXXXX
- Credit Union D = XXXXXXXXXXXXXXXX
- Amount 1 = XXXXXXXXXXXXXXXX
- Amount 2 = XXXXXXXXXXXXXXXX
- Amount 3 = XXXXXXXXXXXXXXXX
- Amount 4 = XXXXXXXXXXXXXXXX
- Date 1 = XXXXXXXXXXXXXXXX
- Date 2 = XXXXXXXXXXXXXXXX

Dear xxxxxxxxx:

This letter is in response to your request dated August 26, 2014, as supplemented by correspondence dated October 13, 2014, March 19, 2015, and June 9, 2015, 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 on Date 1, he received a distribution from Plan X totaling Amount 2 (Amount 1 minus Amount 3 withholding) to cover anticipated medical expenses. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to his physical disability.

Taxpayer A represents that he suffers from chronic pain as a result of an automobile accident during 2011 and is retired on disability from Company C. Medical documentation submitted attests to Taxpayer A's physical disability. Taxpayer A represents that during the 60-day rollover period he was non ambulatory and, as a result, he was unable to rollover Amount 4 back into Plan X. Taxpayer A further represents that he lives in a rural area and was unable to commute to Credit Union D to complete the necessary documents and return the distribution within the 60-day rollover period. On Date 2, during the 60-day rollover period, Amount 2 was deposited and remains in Taxpayer A's savings account with Credit Union D.

Based on the foregoing facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 402(c) (3) of the Code with respect to Amount 4.

Section 402(c)(1) 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 included 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.

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

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) of the Code.

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, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3), 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 was due to his disability.

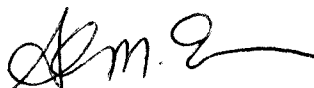
Therefore, pursuant to section 402(c)(3) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 4 from Plan X. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute Amount 4 into a rollover IRA. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount 4 will be considered a rollover contribution within the meaning of section 402(c)(3) 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 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 have any questions concerning this letter, please contact xxxxxxxxxx, xxxxxxxxxxxxxxxx, at xxxxxxxxxxxxxxxx. All correspondence should be addressed to SE:T EP RA:T2.

Sincerely yours,



Sherri M. Edelman, Manager
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose