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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

201420025

FEB 20 2014

Uniform Issue List: 402.00-00 and 408.03-00

T:EP:RA:T1

Legend:

Taxpayer A =

Plan B =

Plan C =

Financial Institution D =

Company E =

IRA F =

Account G =

Financial Institution H =

Amount 1 =

Amount 2 =

Amount 3 =

Amount 4 =

Dear :

This is in response to your request dated March 29, 2013, as supplemented by correspondence dated July 23, 2013, from your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in sections 402(c)(3) and 408(d)(3) of the Internal Revenue Code ("Code"). The distributions of Amounts 1 and 2 from Plans B and C, respectively, are subject to section 402(c)(3), while the distribution of Amount 3 from IRA F is subject to section 408(d)(3).

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

Taxpayer A represents that she took distributions of Amount 1 from Plan B, Amount 2 from Plan C and Amount 3 from IRA F. The distributions of Amount 1 and Amount 2 were subject to 20 percent withholding for federal income tax under section 3405(c) of the Code. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by sections 402(c)(3)(A) and 408(d)(3)(A) of the Code with respect to Amounts 1and 2 and Amount 3, respectively, was the result of Taxpayer A's mental illness and involuntary hospitalization which occurred during the 60-day rollover period.

Taxpayer A participated in Plan B and Plan C, cash or deferred arrangements under section 401(k) of the Code, sponsored by her employer (Company E). Funds in Plan B and Plan C were held by Financial Institution D. On February 1, 2012, Taxpayer A took distributions of Amount 1 from Plan B and Amount 2 from Plan C. Twenty percent of each distribution was paid to the Internal Revenue Service. The remaining balance of each distribution was deposited by Taxpayer A on February 6, 2012, into Account G, a non-IRA checking account with Financial Institution H.

In addition to participating in Plan B, Taxpayer A maintained IRA F with Financial Institution D. On February 3, 2012, Taxpayer A withdrew Amount 3 from IRA F. On February 6, 2012, Taxpayer A deposited Amount 3 into Account G.

Coinciding with the withdrawal of Amounts 1 and 2 from Plans B and C, respectively, and Amount 3 from IRA F, Taxpayer A suffered from a series of psychological disorders. The ruling request is accompanied by a letter from Taxpayer A's psychiatrist. He states that Taxpayer A began experiencing several mental disorders which severely impaired her judgment, caused her to become delusional, and eventually required her involuntary hospitalization.

Based on the above facts and representations, you request that the Service waive the 60-day rollover requirement contained in sections 402(c)(3) and 408(d)(3) of the Code with respect to the distributions of Amounts 1 and 2 (Amount 4) from Plans B and C and Amount 3 from IRA F, 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) of the Code 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) 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)(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).

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, 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 of the Code.

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) of the Code 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 and 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) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code 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) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) 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 408(d)(3)(I) 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 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 the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amounts 1, 2 and 3 was the result of Taxpayer A's mental illness and involuntary hospitalization, within the 60-day rollover period.

Therefore, pursuant to Code section 402(c)(3)(B), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from Plan B and Amount 2 from Plan C. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute an amount not to exceed Amount 4 (the sum of Amount 1 and Amount 2) into a rollover IRA or another qualified plan. 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 will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code. In addition, pursuant to section 408(d)(3)(I), the Service waives the 60-day rollover requirement with respect to the distribution of Amount 3 from IRA F. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute an amount not to exceed Amount 3 into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by sections 401(a)(9) and 408(a)(6) 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.

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 ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact (I.D. #), , at ( ) .

Sincerely yours,

Carlton A. Watkins

Manager
Employee Plans Technical Group 1

cc: