



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

200405012

Uniform Issue List: 408.03-00

NOV 5 2003

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Legend:

Taxpayer =

Individual C =

Individual D =

Amount E =

Amount F =

Amount G =

Employer =

Plan A =

Date W =

Date X =

Date Y -

Date Z =

Plan A Administrator =

Bank 1 =

Dear :

This is in response to a ruling request submitted by your authorized representative dated , in which you request a waiver of the 60-day rollover requirement contained in section 402(c) of the Internal Revenue Code ("Code").

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

You were married to Individual C, an employee of the Employer, and a participant in Plan A. Individual C handled all financial matters during the period of your marriage. He designated you as the sole beneficiary of his interest in Plan A.

Individual C died on Date W. On Date X, the Plan A Administrator, without advance notice or an application from you, issued a check payable to you in the amount of Amount G, representing the full value of Individual C's vested interest in Plan A (Amount E) less the 20% federal withholding (Amount F). You were still dealing with the emotional stress of your spouse's death and were confused about what to do. You deposited the check in the amount of Amount G in an account in Bank 1 on Date Y. The money from Amount G has remained in your account in Bank 1 since it was deposited.

On Date Z, Individual D, a relative and CPA, while assisting you in sorting through some financial matters, discovered your failure to timely roll over the distribution from Plan A, and suggested you request a ruling to correct this failure. You intend to contribute Amount F and Amount G into a qualified Individual Retirement Arrangement (IRA).

Based on the above facts and representations, you, through your authorized representative, request that the Internal Revenue Service waive the 60-day rollover requirement with respect to the distribution of Amount F and Amount G, because the failure to waive such requirement would be against equity or good conscience.

Section 7701(j)(1)(A) of the Code provides that the Federal Thrift Savings Plan shall be treated as a trust described in section 401(a) of the Code, and is exempt from taxation under section 501(a) of the Code.

Section 7701(j)(1)(B) of the Code provides that any contribution to, or distribution from the Federal Thrift Savings Plan shall be treated in the same manner as contributions to or distributions from a trust described in section 401(a) of the Code.

Section 402(c)(3)(A) of the Code requires that an eligible rollover distribution from a qualified retirement plan must be transferred to an eligible retirement plan no later than the 60th day following the day of receipt in order to avoid having to include that distribution in the distributee's gross income for that year.

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.

Revenue Procedure 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 403(c)(2)(B) 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 you have presented demonstrates hardship because of the unexpected and unrequested distribution from Plan A, and your confusion due to the impact of your spouse's death. As such, this information indicates you could not reasonably satisfy the requirement that Amount F and Amount G be deposited in an eligible retirement plan or IRA within 60 days of the distribution from Plan A. The failure to deposit Amount F and Amount G into an IRA within the 60-day period was beyond the reasonable control of the Taxpayer, and the failure to waive the 60-day requirement would be against equity or good conscience.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the part of Amount F and Amount G that constitutes an eligible rollover distribution pursuant to section 402(c)(4) of the Code. You are granted a period of 60 days from the issuance of this ruling letter to contribute Amount F and Amount G into one or more IRAs. Provided all other requirements of section 402(c) of the Code, except the 60-day requirement, are met with respect to such contributions, these amounts will be considered rollover contributions within the meaning of section 402(c) 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 that 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 the power of attorney on file with this office, you are receiving the original of this letter ruling and your representative is receiving a copy of the letter ruling.

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If you wish to inquire about this ruling, please contact

Sincerely yours,

A handwritten signature in black ink, appearing to read "Alan Pipkin". The signature is fluid and cursive, with a large initial "A" and "P".

Alan C. Pipkin
Manager, Technical Group 4
Employee Plans

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc:

cc: