

INTERNAL REVENUE SERVICE

200423035

Uniform Issue List: 408.03-00

MAR 12 2004

T. EP: RA: T4

Legend:

Taxpayer A=

Amount B=

Employer C=

Plan C=

Payor D=

Dear

This is in response to your letter in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3)(B) 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:

After working nearly years for Employer C, you were terminated on , with a partial disability due to back injuries you suffered on the job. You immediately filed a workers' compensation claim with the proper state authorities but its processing was delayed. You applied for a distribution from Plan C and received Amount B on , intending to re-deposit Amount B when you received your workers' compensation award.

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Your workers' compensation claim was settled and on _____, approximately one month after the 60-day rollover period expired, Payor D paid you the total settlement amount. You would like to re-deposit Amount B in Plan C.

You represent that no other amount was distributed from Plan C within the one year period since the last distribution.

Based on the above facts and representations, you request that the Service waive the 60-day rollover requirement with respect to the distribution of Amount B because the failure to waive such requirement would be against equity or good conscience.

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.

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) 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 presented demonstrates you were disabled and the delay in processing your workers' compensation claim prevented you from satisfying the requirement that Amount B be deposited in Plan C within 60 days after the distribution.

Therefore, the Service hereby grants your request to waive the 60-day rollover requirement with respect to the distribution of Amount B. You are granted a period of 60 days from the issuance of this ruling letter to deposit Amount B into Plan C or into an Individual Retirement Account. Provided all other requirements of section 402(c)(3) 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)(3) or section 408(d)(3) of the Code.

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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 taxpayers who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact _____, at
_____. Please address all correspondence to _____.

Sincerely yours,

/s/ Donnell Littlejohn

_____, Manager
Employee Plans Technical Group 4

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