

September 9, 2016

New Self-Certification Procedure For Taxpayers Who Miss 60-day Rollover Deadline

In a recent Revenue Procedure, IRS has provided a new self-certification procedure designed to help recipients of retirement plan distributions who, **due to one or more specified reasons, inadvertently miss the 60-day time limit for properly rolling these amounts into another retirement plan or individual retirement arrangement (IRA)**. The new self-certification procedure allows these taxpayers to claim eligibility for a waiver of the 60-day rollover requirement that can be relied upon by a plan administrator or IRA trustee in accepting and reporting receipt of the rollover contribution.

Background. There is **no immediate tax if distributions from an IRA are rolled over to an IRA or other eligible retirement plan. For the rollover to be tax-free, the amount distributed from the IRA generally must be recontributed to the IRA or other eligible retirement plan no later than 60 days after the date that the taxpayer received the withdrawal from the IRA. A distribution rolled over after the 60-day period generally will be taxed (and also may be subject to a 10% premature withdrawal penalty tax).** Only one tax-free IRA-to-IRA rollover per IRA account can be made within a one-year period.

IRS may waive the 60-day rule if an individual suffers a casualty, disaster, or other event beyond his reasonable control, and not waiving the 60-day rule would be against equity or good conscience. Historically, there was a letter-

ruling procedure for taxpayers to apply for a waiver of the 60-day rollover requirement and included several factors that IRS considers in determining whether to waive the 60-day rollover requirement. These factors include time elapsed since the distribution and inability to complete the rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, postal error, errors committed by a financial institution, etc. The Rev Proc also provides for automatic approval for a waiver of the 60-day rollover requirement in certain circumstances in which a rollover is not made timely due to an error on the part of a financial institution.

New self-certification option. A taxpayer may make a written certification to a plan administrator or an IRA trustee, custodian, or issuer by using the model

letter provided in Rev Proc 2016-47 or by using a letter that is substantially similar in all material respects. A copy of the certification should be kept in the taxpayer's files and be available if requested on audit.

The certification must state that a contribution satisfies the following conditions:

- IRS must not have previously denied a waiver request with respect to a rollover of all or part of the distribution to which the contribution relates.
- The taxpayer must have missed the 60-day deadline because of the taxpayer's inability to complete a rollover due to one or more reasons set out in Rev Proc 2016-47, Sec. 3.02(2), including error by the financial institution, postal error, and **(continued on page 2)**



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death in the taxpayer's family.

- The contribution must be made to the plan or IRA as soon as practicable after the applicable reason(s) no longer prevent the taxpayer from making the contribution. This requirement is deemed to be satisfied if the contribution is made within 30 days after that time.

IRS intends to modify the instructions to Form 5498, IRA Contribution Information, to require that an IRA trustee that accepts a rollover contribution after the 60-day deadline report that the contribution was accepted after the 60-day deadline.

A plan administrator or IRA trustee may, absent actual knowledge to the contrary, rely on a taxpayer's self-certification solely for purposes of determining whether the taxpayer has satisfied the conditions for a waiver of the 60-day rollover requirement.

IRS cautioned that a self-certification is not a waiver of the 60-day requirement. However, a taxpayer may report the contribution as a valid rollover unless later informed otherwise by IRS. If IRS, in the course of an examination, determines that the requirements for a waiver were not actually met, the taxpayer may be subject to additions to income and penalties, such as the penalty for failure to pay the proper amount of tax under Code Sec. 6651.

Modification of prior Rev Proc. Rev Proc 2016-47 also modifies Rev Proc 2003-16, by providing that, in addition to automatic waivers and those granted via application for a letter ruling, IRS may grant a waiver during an examination of the taxpayer's income tax return.

Effective date. Rev Proc 2016-47 is effective on Aug. 24, 2016.

The extended filing deadline for calendar year-end partnerships, S-corps and corporations is 9/15/16!

The extended filing deadline for individual tax returns is 10/15/16!

Cooperatives with December 2015 year-ends, Partnerships with May 2016 year-ends, and S-corps/C-Corps with June 2016 year-ends are due 9/15/16, or need to file an extension.

If you have any clients that need tax returns or extensions prepared before those deadlines, please let us know ASAP.

Thanks!



Reminder!