

IRS GRANTS WAIVER OF 60-DAY ROLLOVER PERIOD

Hodgson Russ Employee Benefits Newsletter
September 30, 2021

When an eligible qualified plan or IRA distribution is made and the recipient wishes to roll the distribution into another eligible retirement plan, it is widely understood that the recipient generally must complete the rollover within 60 days of receiving the distribution if the rollover is not otherwise accomplished under the direct rollover rules. For rollovers that are subject to the 60-day rollover period, it is worthwhile keeping in mind that there are available exceptions to the 60-day rollover period. In some circumstances, there are procedures under which a taxpayer who receives an eligible distribution from a qualified plan or IRA may be able to make a written self-certification to a plan administrator or IRA custodian that the taxpayer's rollover contribution qualifies for a waiver of the 60-day rule. In other instances, a recipient may opt to request a ruling from the IRS waiving the 60-day rollover rule – those waivers can be granted where the failure to waive the rule would be against equity or good conscience, including casualty, disaster or other events beyond the reasonable control of the taxpayer.

A recently published IRS private letter ruling is an example of a situation where the IRS has been willing to grant a waiver of the 60-day rule. In Private Letter Ruling 202134019, the IRS granted a waiver of the 60-day rule. In that case, the taxpayer received a distribution of shares of company Y stock from IRA 1 due to the resignation of the IRA 1 custodian. The taxpayer arranged to have custodian P of IRA 2 hold the assets of IRA 1, including the company Y shares. IRA 2, however, did not receive the company Y shares within the 60-day rollover period. The taxpayer asserted she was unable to accomplish a rollover of the shares within the 60-day rollover period because she relied on company Y's chief financial officer, who agreed to handle the transfer of shares and who failed to ensure that company Y shares of stock were received by IRA 2 within that 60-day period. After the 60-day period expired, custodian P advised the taxpayer in writing that it had tried contacting company Y's chief financial officer on several occasions to inform him that IRA 2 did not receive the company Y shares of stock. Based on those facts, the IRS granted a waiver of the 60-day rollover rule with respect to the rollover of the distributed shares of company Y stock. The taxpayer was given 60 days from the issuance of the ruling to complete the rollover of the company Y shares.

Attorneys

Peter Bradley
Michael Flanagan
Richard Kaiser
Ryan Murphy
Amy Walters

Practices & Industries

Employee Benefits