

## New Self-Certification Procedure for Missed Rollover Deadlines

### Cross References

- Rev. Proc. 2016-47

Any amount distributed from a qualified retirement plan or an IRA is excluded from income if it is transferred to an eligible retirement plan or IRA no later than the 60th day following the day of distribution. A similar rule applies to annuity plans, 403(b) plans, and 457 governmental plans. The IRS has the authority to waive the 60-day rollover requirement when 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 who fails to meet the 60-day rollover requirement. The IRS has in the past established a letter-ruling procedure for taxpayers to write to the IRS and request a waiver of the 60-day rollover requirement. The IRS has recently issued a new procedure for written self-certification for taxpayers requesting a waiver. The self-certification is not an automatic waiver by the IRS of the 60-day rollover requirement. However, a taxpayer may report the contribution as a valid rollover and assume that the 60-day rollover requirement is waived, unless later informed otherwise by the IRS.

**Conditions for self-certification.** To use the new self-certification procedure, the 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 of the following reasons:

- a) An error was committed by the financial institution receiving the contribution or making the distribution to which the contribution relates.
- b) The distribution, having been made in the form of a check, was misplaced and never cashed.
- c) The distribution was deposited into and remained in an account that the taxpayer mistakenly thought was an eligible retirement plan.
- d) The taxpayer's principal residence was severely damaged.
- e) A member of the taxpayer's family died.
- f) The taxpayer or a member of the taxpayer's family was seriously ill.
- g) The taxpayer was incarcerated.
- h) Restrictions were imposed by a foreign country.
- i) A postal error occurred.
- j) The distribution was made on account of a levy under IRC section 6331 and the proceeds of the levy have been returned to the taxpayer.
- k) The party making the distribution to which the rollover relates delayed providing information that the receiving plan or IRA required to complete the rollover despite the taxpayer's reasonable efforts to obtain the information.

**Contributions.** The contribution must be made to the plan or IRA as soon as practicable after the reason or reasons listed above 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 the reason or reasons no longer prevent the taxpayer from making the contribution.

**Plan administrator or IRA trustee.** For purposes of accepting and reporting a rollover contribution into a plan or IRA, a plan administrator or IRA trustee may rely on a taxpayer's self-certification in determining whether the taxpayer has satisfied the conditions for a waiver of the 60-day rollover requirement. The plan administrator or IRA trustee may not rely on the self-certification for any other purpose other than what is listed in this Revenue Procedure. The plan administrator or IRA trustee also cannot rely on the self-certification if the plan administrator or IRA trustee has actual knowledge that is contrary to the self-certification.

**Format for written self-certification.** A taxpayer may make the self-certification by using the model letter in the appendix of Revenue Procedure 2016-47 on a word-for-word basis 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.

#### **Author's Comment**

The Revenue Procedure provides no information on filing the self-certification with the IRS. Instead, the self-certification is used to inform the plan administrator or IRA trustee that the contribution qualifies as a rollover. The self-certification is also used by the taxpayer to allow the IRS to grant the waiver during an examination of the taxpayer's income tax return in the event that the taxpayer is audited.