You Failed To Rollover, Beethoven? No Worries, The IRS Is Here To Help

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When you take a distribution from an IRA or another type of qualified retirement plan, you have 60 days to rollover that money into another IRA or the same account. So what happens if, for one reason or another, the money did not get rolled-over within the 60-day period? What do you do now? This is a question that I've heard asked time and time again. The practical answer has always been that you are required to pay the tax on the entire amount, and sometime an additional 10% penalty. Until recently, the only way to avoid this terrible result would be to seek relief from the IRS in the form of a request for a Private Letter Ruling. This is a difficult process that also requires the payment of a significant user fee to the IRS just for considering the request. Beyond that, you would need an excuse that fits into a very limited set of circumstances. But all of that changed this past summer.

With little publicity and no drum roll, on August 24th 2016, the IRS issued Rev. Proc. 2016-47 which now makes it possible to obtain relief without the need for a Private Letter Ruling. In fact, it is now possible to get relief from the 60 day rollover requirement if you satisfy any one of the 11 circumstances specifically set forth in the Rev. Proc., and you follow the "self-certification" process also outlined in the Rev. Proc. The IRS makes this easy because they have also provided a model letter that can be used for the self-certification.

The circumstances that the IRS has identified as being sufficient to justify relief are the following:

1. An error was committed by the financial institution receiving the contribution or making the distribution to which the contribution relates;
2. The distribution, having been made in the form of a check, was misplaced and never cashed;
3. The distribution was deposited into and remained in an account that the taxpayer mistakenly thought was an eligible retirement plan;
4. The taxpayer's principal residence was severely damaged;
5. A member of the taxpayer's family died;

6. The taxpayer or a member of the taxpayer's family was seriously ill;
7. The taxpayer was incarcerated;
8. Restrictions were imposed by a foreign country;
9. A postal error occurred;
10. The distribution was made on account of a levy under Internal Revenue Code Section 6331, and the proceeds of the levy have been returned to the taxpayer; or
11. 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.

Another requirement for relief is that a prior request for relief has not been denied by the IRS – so no "*do-overs*". Also, a contribution of the withdrawn funds must be made to the plan or IRA as soon as practicable after the reason or reasons listed in the preceding paragraph no longer prevent the taxpayer from making the contribution. This requirement is deemed satisfied if the contribution is made within 30 days after the reason or reasons no longer prevent the taxpayer from making the contribution.

Holy cow – that is extremely generous relief from the IRS!!! I mean take a look at numbers 2 and 9. The IRS is now saying that a misplaced check or a mailing error is sufficient cause for relief.

So what is the "self-certification" process and how complicated is this model letter the IRS has provided? You can check out the Rev. Proc. here: https://www.irs.gov/pub/irs-drop/rp-16-47.pdf. At the end is the model letter. It is remarkably simple and straight-forward.

So from here on out, if you miss the 60 day rollover deadline, don't panic. A kinder, gentler IRS has now fashioned a wonderful form of relief.