

IRS Announces New IRA Rollover Limitation

A tax court ruling raises eyebrows & leads to a decision that may affect you.

Provided by Benedict A. Mitchell Jr.

What was once allowed is now prohibited. In 2008, an affluent New York City couple made a series of withdrawals and transfers among contributory IRAs, rollover IRAs and non-IRA investment accounts, all with the long-established 60-day deadline for tax-free IRA rollovers in mind. As esteemed tax attorney Alvan Bobrow and his wife withdrew and rolled over a series of five-figure sums within a six-month period, they assumed their actions were permissible under the Internal Revenue Code. In January 2014, a U.S. Tax Court judge ruled otherwise.¹

This Tax Court opinion has prompted the IRS to tighten the IRA rollover rules. In the past, some clever taxpayers have effectively treated themselves to interest-free loans from their IRA funds by using multiple IRA accounts to sequence multiple 60-day rollover periods. In the court's view, the Bobrows were exploiting this loophole, and the IRS is closing it.^{1,2}

Starting in 2015, you are allowed one IRA-to-IRA rollover per 365 days - period. A subtle but important change has been made. Publication 590 has long stated that a taxpayer can generally only make one tax-free rollover of any part of a distribution from a single IRA to another IRA during a 12-month period. That didn't preclude a taxpayer from making multiple IRA-to-IRA rollovers using multiple IRAs during such a timeframe.^{1,4}

In response to *Bobrow v. Commissioner, T.C. Memo 2014-21*, the IRS issued Announcement 2014-15. Effective January 1, 2015, the once-a-year rollover restriction applies to all IRAs maintained by a taxpayer. So the tactic of making multiple IRA-to-IRA tax-free rollovers during a 12-month period is kaput.^{3,4}

So beginning next year, you can only make a tax-free IRA-to-IRA rollover if you haven't made one within the past 365 days.³

Don't grumble just yet. If you want to move money between IRAs more than once next year, there is still a way you can do it. The new IRS rule change doesn't apply to every type of IRA "rollover."

The financial media uses the phrase "IRA rollover" pretty loosely. When you read a story about "IRA rollovers," the term may refer to IRA-to-IRA rollovers, distributions from a workplace retirement plan going into an IRA, or a trustee-to-trustee transfer of IRA assets between financial firms in which the taxpayer never handles the money.

Here's the good news. IRS Announcement 2014-15 states: "These actions by the IRS will not affect the ability of an IRA owner to transfer funds from one IRA trustee directly to another,

because such a transfer is not a rollover and, therefore, is not subject to the one-rollover-per-year limitation of § 408(d)(3)(B).”³

In other words ... *the new restriction does not apply to trustee-to-trustee transfers*. The IRS has clearly defined in the above language that it does not regard these transfers as rollovers. Some transition relief is also available: the IRS won’t apply the new limitation to any rollover involving an IRA distribution that happens prior to January 1, 2015.⁴

Some important questions beg for answers. As Bloomberg BNA notes, the new limitation actually muddies the waters a bit. Some taxpayers own both traditional and Roth IRAs; will they be allowed to take one distribution from their traditional IRA with the intention of a tax-free rollover and another distribution from their Roth IRA pursuant to a tax-free rollover within the same 12-month period? Could an IRA owner and his/her tax planner argue that a succession of linked IRA distributions pursuant to a single outcome substantively amount to a single distribution, citing the step transaction doctrine in defense?⁴

It is possible that further guidance from the IRS may emerge. Regardless of whether it does or not, IRA-to-IRA rollovers are about to be scrutinized more closely.

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Citations.

1 - wealthmanagement.com/retirement-planning/seeing-double [2/4/14]

2 - marketwatch.com/story/new-ira-rollover-rule-coming-in-2015-2014-04-04 [4/4/14]

3 - irs.gov/pub/irs-drop/a-14-15.pdf [4/16/14]

4 - tinyurl.com/lnD86vs [4/24/14]