



IRS Officially Changing Course to Follow Tax Court on IRA Rollover Limits

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In January 2014, the U.S. Tax Court issued a surprising decision in *Bobrow v. Commissioner* that the rule limiting IRA-to-IRA rollovers to one every 12 months (set forth in IRC Section 408(d)(3)(B)) applies on a *per-taxpayer* basis to all of his or her IRAs rather than a per-IRA basis. This ruling contradicted the position taken by the IRS in its own tax guidance materials, including proposed regulations and Publication 590 (Individual Retirement Arrangements), which explicitly states that a rollover from one IRA during a 12-month period would prevent future rollovers from that IRA during the same period *but would not* affect the taxpayer's ability to take a rollover from another IRA. On March 20, the IRS announced that it would be withdrawing the proposed regulations and revising Publication 590 to follow the approach adopted by the Tax Court in *Bobrow*.

In *Bobrow*, the taxpayer received two distributions from two separate IRAs during the same 12-month period. Both distributions were repaid to the same IRAs within 60 days of each distribution. Generally, a distribution from an IRA to the taxpayer will result in taxable income unless any such distribution is rolled over to an IRA or other eligible retirement plan within 60 days of the distribution. Under the standards of the IRS-proposed regulations and Publication 590, both of Bobrow's distributions should have qualified as rollovers and thus should not have been includible as income. However, the IRS commissioner argued instead that the second distribution was disqualified as a rollover (and was thus a distribution subject to tax) because it occurred within the same 12-month period as the previous IRA rollover, even though the distributions came from different IRAs. The Tax Court agreed, and Bobrow's second rollover was invalidated.

In its announcement, the IRS acknowledged that IRA trustees and administrators would need time to make changes in their rollover procedures and disclosure documents. Therefore, the IRS will not apply the *Bobrow* interpretation to any rollover that involves an IRA distribution before January 1, 2015.

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