



Updated Friday, July 25, 2014 as of 9:41 AM ET

[PORTFOLIO - IRAS/401K](#)

## IRS Clarifies IRA Rollover Limitation

by: Michael Cohn

The IRS has partially withdrawn some of the rules it had earlier proposed on limiting rollovers from individual retirement arrangements.

In [REG- 209459-78](#), the IRS noted last week that the partial withdrawal of the proposed regulation will affect individuals who maintain IRAs and financial institutions that are trustees, custodians, or issuers of IRAs.

Section 408(d) of the Tax Code governs distributions from IRAs and generally provides that any amount distributed from an IRA is includible in gross income by the payee or distributee. A payee or distributee of an IRA distribution is allowed to exclude from gross income any amount paid or distributed from an IRA that is subsequently paid into an IRA not later than the 60th day after the day on which the payee or distributee receives the distribution. An individual is permitted to make only one nontaxable rollover in any one-year period.

Under proposed regulations dating back to 1981, the rollover limitation would be applied on an IRA-by-IRA basis, and that rule is reflected in [IRS Publication 590](#), "Individual Retirement Arrangements (IRAs)." However, Section 408(d)(3) (B) provides that the exclusion from gross income for IRA rollovers pursuant to subparagraph (A)(i) does not apply "if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from an individual retirement account or an individual retirement annuity which was not includible in his gross income because of the application of this paragraph."

Based on the language in that section, a recent Tax Court opinion, [Bobrow v. Commissioner, T.C. Memo. 2014-21](#), held that the limitation applies on an aggregate basis. Thus, under Bobrow, an individual cannot make an IRA-to-IRA rollover if the individual has made an IRA-to-IRA rollover involving any of the individual's IRAs in the preceding one-year period.

The IRS said it intends to follow the opinion in Bobrow and, accordingly, and is thus withdrawing a paragraph in the proposed regulations and will revise Publication 590.

The IRS added that this interpretation of the rollover rules under Section 408(d)(1)(B) does not affect the ability of an IRA owner to transfer funds from one IRA trustee or custodian directly to another, because such a transfer is not a rollover and, therefore, is not subject to the one-rollover-per-year limitation.

In response to comments expressing concern over implementation of the rollover limitation as interpreted in Bobrow, the IRS released an announcement in March, [Announcement 2014-15](#), addressing the application to individual retirement accounts and individual retirement annuities of the one-rollover-per-year limitation and providing transition relief for owners (see [IRS Offers Transition Relief for IRA Owners](#)). The IRS said it would not apply the Bobrow interpretation of Section 408(d)(3)(B) to any rollover that involves a distribution occurring before Jan. 1, 2015.

David Waddington, a partner at Friedman LLP and managing partner of Friedman's Benefits 21 LLC pension division, suggested in an Accounting Today Unaudited podcast last week that accountants are going to have to advise clients to apply the aggregate rule (see [Changes in IRA Rollover Rules](#)). "In my practice, it's pretty unusual for people to actually take money out of their IRAs," he said. "We're geared as accountants towards wanting people to keep their money in their IRAs, and then under the 72(t) minimum distribution rules at age 70 ½, they have to start withdrawing these

moneys. Most people want to keep the money there.”

*Michael Cohn is the editor-in-chief of AccountingToday.com.*

**Read more:**

- [Wealthy Clintons Use Trusts to Avoid Full Estate Tax They Back](#)
- [IRS Finalizes Regulations on Written Tax Advice](#)
- [IRS May Expand Holds on Tax Refunds for Delinquent Taxpayers](#)



**SOURCEMEDIA** © 2014 [SourceMedia](#). All rights reserved.