CPA Practice Advisor

Revenue Code – a taxpayer can roll over funds from one IRA to another only once a year.

Ken Berry • Feb. 19, 2014

Under the federal income tax law – specifically, Section 408(d)(3)(B) of the Internal Revenue Code – a taxpayer can roll over funds from one IRA to another only once a year. Based on legislative history and the IRS' own interpretation of this rule, as spelled out in Pub. 590, *Individual Retirement Accounts (IRAs)*, practitioners have previously applied this rule separately to each IRA owned by a taxpayer. But a new Tax Court case upsets the apple cart (Bobrow, TC Memo 2014-21).

The basic premise is simple enough. Generally, there's no tax due on a transfer of funds from one IRA to another if the rollover is completed within 60 days. In effect, a taxpayer can benefit from the use of the funds for up to 60 days, no questions asked,

Because both repayments were made within the 60-day timeframe for IRA rollovers, Alvan said that each one qualified for tax-free treatment. Accordingly, he paid zero tax on the IRA distributions on his 2008 return.

But the Tax Court didn't agree with Alvan's logic. It said that the once-a-year limit on IRA rollovers invalidated the transfer to IRA #2. As a result, the distribution is taxable. The Court concluded that the rule applies to all of the taxpayer's IRA accounts, based on its reading of the language in the law, as well as citing previous opinions. "Regardless of how many IRAs he or she maintains, a taxpayer may make only one nontaxable rollover contribution within each one-year period."

This seems to fly in the face of the IRS' guidance as stated on pg. 25 of Pub. 590. The relevant section is quoted below.

"Waiting period between rollovers. Generally, if you make a tax-free rollover of any part of a distribution from a traditional IRA, you cannot, within a 1-year period, make a tax-free rollover of any later distribution from that same IRA. You also cannot make a tax-free rollover of any amount distributed, within the same 1-year period, from the IRA into which you made the tax-free rollover.

The 1-year period begins on the date you receive the IRA distribution, not on the date you roll it over into an IRA.

Example. You have two traditional IRAs, IRA-1 and IRA-2. You make a tax-free rollover of a distribution from IRA-1 into a new traditional IRA (IRA-3). You cannot, within 1 year of the distribution from IRA-1, make a tax-free rollover of any distribution from either IRA-1 or IRA-3 into another traditional IRA.

However, the rollover from IRA-1 into IRA-3 does not prevent you from making a tax-free rollover from IRA-2 into any other traditional IRA. This is because you have not, within the last year, rolled over, tax free, any distribution from IRA-2 or made a tax-