rule. In the aftermath of a new case tightening the restriction for IRA owners (Bobrow, TC Memo 2014-21), it recently announced it intends the follow the Tax Court's lead on this issue. However, showing some leniency, the IRS now says it won't implement the new rule until 2015, providing clients with leeway for the rest of this year (Announcement 2014-15)

**Ken Berry, JD** • Jun. 02, 2014

The IRS isn't backing off on its tough stance involving the "once-a-year-IRA rollover" rule. In the aftermath of a new case tightening the restriction for IRA owners (Bobrow, TC Memo 2014-21), it recently announced it intends the follow the Tax Court's lead on this issue. However, showing some leniency, the IRS now says it won't implement the new rule until 2015, providing clients with leeway for the rest of this year (Announcement 2014-15)

Here's the crux of the matter: Under the tax code, a taxpayer is permitted to roll over funds from one IRA to another within 60 days without being liable for any current tax. This effectively gives someone the interest-free use of funds for 60 days. However, in another tax law provision, you're limited to only one rollover within a 12-month period.

According to many tax experts, as well as the IRS's own interpretation stated in Publication 590 *Individual Retirement Accounts (IRAs)*, this rule was thought to apply separately to each IRA owned by the taxpayer (see sidebar). Yet the Tax Court said that the once-a-year limit should be applied to all IRA is the owner's name – and now the IRS agrees whole-heartedly.

Although some of the facts in the new case are in dispute, and the taxpayer may have botched the timing for a subsequent rollover, this much is clear: The taxpayer, Mr. Bobrow, entered into a series of IRA distributions and deposits involving several IRAs in 2008. Significantly, he received a distribution from his traditional IRA#1 on April



IRA rollovers invalidated the transfer to IRA #2. Thus, the second distribution was taxable to Bobrow at ordinary income rates. Citing legislative intent, the Court arrived at this conclusion by a literal reading of the tax provision limiting IRA owners to only one nontaxable rollover contribution within each one-year period.

Despite its statement in Pub. 590, which is not a legally binding authority, the IRS was only too happy to jump on the bandwagon and embrace the Tax Court's new ruling.  As a result, if a taxpayer rolls over funds from one IRA to another, he or she simply can't rollover funds from any other IRA to another IRA within the same year. The IRS says it will revise its proposed regulations on this issue and, just to be sure, it intends to have the restriction codified. This will formally eliminate the strategy of daisy-chaining rollovers to free up IRA funds for other use.

At least there's a silver tax lining for taxpayers: Because this is a significant departure of the rule and the way the IRS itself viewed such transactions in the past, it won't implement the change until next year. Thus, if a client is in the midst of series of rollovers or was contemplating its use, there's still some time to benefit from this strategy. But keep in mind that the rule affects rollovers within any 12-month period, not the calendar year.

Finally, note that the once-a-year rule doesn't apply trustee-to-trustee transfers from one IRA to another where the money never touches the taxpayer's hands. Your clients are able to use this technique as often as they like –= no questions asked.

But That's What the IRS Said…

The IRS previously appeared to give taxpayers carte blanche to use multiple rollovers from different IRAs within one year by stating the following on pg, 25 of Pub. 590:

"**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



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-free rollover into IRA-2."

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