

MEMO# 30236

September 12, 2016

IRS Provides Internal Guidance Relating to Coverdell ESA Rollovers

[30236]

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TO: PENSION MEMBERS No. 28-16
529 PLAN MEMBERS No. 6-16
BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 33-16
BROKER/DEALER ADVISORY COMMITTEE No. 33-16
TRANSFER AGENT ADVISORY COMMITTEE No. 45-16
OPERATIONS COMMITTEE No. 22-16 RE: IRS PROVIDES INTERNAL GUIDANCE RELATING TO COVERDELL ESA ROLLOVERS

In an internal memorandum from the IRS Office of Chief Counsel to the Director of Tax Forms and Publications, [1] the IRS has advised that under Internal Revenue Code section 530(d) (relating to distributions from Coverdell education savings accounts), taxpayers are permitted only one rollover per 1-year period from a Coverdell ESA to another Coverdell ESA. This interpretation is consistent with the Tax Court opinion in *Bobrow v. Commissioner*, which held that the one-rollover-per-year limitation for IRAs (under Code section 408(d)(3)(B)) applies on an aggregated basis to all of a taxpayer's IRAs and not to each IRA separately. [2] The memorandum notes that the language in Code section 530(d)(5) regarding the Coverdell one-rollover-per-year rule is similar to that in section 408(d)(3)(B), hence the consistent interpretation.

The memorandum also notes that, as in the IRA context, a direct trustee-to-trustee transfer is not considered a distribution or rollover and thus would not count towards the one-per-year rule. Finally, the memorandum provides updated language which was incorporated into the most recent version of Publication 970 (Tax Benefits for Education), for preparing 2015 returns. [3]

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endnotes

[1] The memorandum (available here <https://www.irs.gov/pub/iranoa/pmta-2016-10.pdf>) is

dated December 14, 2015, but was recently released publicly as Program Manager Technical Advice (PMTA) 2016-10. As explained on the IRS website, such documents are legal advice, signed by attorneys in the National Office of the Office of Chief Counsel and issued to IRS personnel who are national program executives and managers. They are issued to assist IRS personnel in administering their programs by providing authoritative legal opinions on certain matters, such as industry-wide issues. They cannot be used or cited as precedent.

[2] See Memorandum to Pension Members No. 45-14, Bank, Trust and Retirement Advisory Committee No. 48-14, Broker/Dealer Advisory Committee No. 54-14, Transfer Agent Advisory Committee No. 73-14, and Operations Members No. 20-14 [28528], dated November 20, 2014.

[3] Publication 970 is available here: <https://www.irs.gov/pub/irs-pdf/p970.pdf>.

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