

MEMO# 28261

July 11, 2014

IRS Withdraws Proposed Regulatory Amendment Regarding IRA One-Rollover-Per-Year Rule

[28261]

July 11, 2014

TO: PENSION MEMBERS No. 31-14
BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 32-14
BROKER/DEALER ADVISORY COMMITTEE No. 36-14
TRANSFER AGENT ADVISORY COMMITTEE No. 45-14
OPERATIONS MEMBERS No. 8-14 RE: IRS WITHDRAWS PROPOSED REGULATORY AMENDMENT REGARDING IRA ONE-ROLLOVER-PER-YEAR RULE

As anticipated, on July 11, 2014, the Internal Revenue Service (IRS) published a notice in the Federal Register withdrawing part of a proposed regulation relating to the IRA one-rollover-per-year rule. [\[1\]](#) Internal Revenue Code (IRC) section 408(d)(3)(B) [\[2\]](#) limits a taxpayer to one nontaxable rollover per year with regard to the taxpayer's Individual Retirement Accounts and Individual Retirement Annuities (collectively, IRAs). In July 1981, IRS proposed an amendment to regulation section 1.408-4(b)(4) to provide that the one-rollover-per-year limit on IRA rollovers is applied on an IRA-by-IRA basis. The proposed amendment was never finalized.

As you may recall, in the *Bobrow v. Commissioner* decision, the U.S. Tax Court ruled that the one-rollover-per-year rule applies on an aggregated basis to all of a taxpayer's IRAs and not to each IRA separately. [\[3\]](#) The court's opinion is inconsistent with IRS's proposed regulatory amendment and IRS Publication 590, which provides that this limitation is applied on an IRA-by-IRA basis. In response to the *Bobrow* decision, IRS previously issued Announcement 2014-15, noting that it anticipated following the interpretation of section 408(d)(3)(B) in *Bobrow* by withdrawing the proposed regulation and revising Publication 590 to the extent needed to follow that interpretation. [\[4\]](#)

This recent notice serves to formally withdraw the proposed amendment. Additionally, consistent with the transition relief provided for in Announcement 2014-15, the notice states that IRS will not apply the *Bobrow* interpretation of section 408(d)(3)(B) to any rollover that involves a distribution occurring before January 1, 2015. It continues to be unclear how the current interpretation would apply to Roth IRAs, and whether a taxpayer may take a distribution from both a traditional IRA and a Roth IRA during a single 12-month

period.

Howard Bard
Associate Counsel

endnotes

[1] The notice is available here:

<http://www.gpo.gov/fdsys/pkg/FR-2014-07-11/pdf/2014-16281.pdf>.

[2] IRC Section 408(d)(1) generally provides that any amount distributed from an IRA is includable in gross income by the distributee. IRC section 408(d)(3)(A), however, allows a payee or distributee of an IRA distribution to exclude from gross income any amount paid or distributed from an IRA if the entire amount is rolled over into a qualifying IRA or eligible retirement plan not later than 60 days after the date of the distribution.

[3] See [Memorandum](#) to Pension Members No. 4-14, Bank, Trust and Retirement Advisory Committee No. 8-14, Broker/Dealer Advisory Committee No. 8-14, Transfer Agent Advisory Committee No. 9-14, Operations Committee No. 7-14 [27894], dated February 18, 2014.

[4] See [Memorandum](#) to Pension Members No. 11-14, Bank, Trust and Retirement Advisory Committee No. 12-14, Broker/Dealer Advisory Committee No. 13-14, Transfer Agent Advisory Committee No. 15-14, Operations Committee No. 12-14 [27968], dated March 21, 2014.