The Bankler Report

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INTRODUCTION

Recently the IRS announced that, effective January 1, 2015, it would follow the Tax Court's ruling in *Bobrow* (TC Memo 2014-21), which allows only one rollover per year from **ALL** of a taxpayer's IRAs, rather than the current rule, which allowed one rollover per year from **EACH** of a taxpayer's IRAs.

Background.

Prior to this court decision, the IRS position (as reflected in a proposed Reg and IRS Publication 500) was that the taxpayers could take a distribution from an IRA and, within 60 days roll over that amount to the same or another IRA, in order to avoid inclusion of the rollover into gross taxable income.

After the decision, IRS announced that it would: a) rescind its long-standing interpretation of the "one IRA rollover per year rule" and b) adopt a new rule allowing only one rollover per year from all of a taxpayer's IRAs. However, to give taxpayers and IRA trustees time to adjust to this major reinterpretation, IRS said the new interpretation will not apply to any rollover that involves a distribution occurring before Jan. 1, 2015.

Last Chance to get Interest-Free, Tax-Free Loan from IRAs.

Before 2015, the one-year rule applies separately to each IRA an individual owns, enabling a taxpayer with multiple IRAs to generate a surprisingly long interest-free, tax-free loan.

Example.

Mr. Smith needs a short term loan of $25,000 to cover an investment. He is in the process of selling real estate and will have these funds repaid in 2015. He has six-figure balances in each of IRA-A, IRA-B, and IRA-C. Smith can arrange for a short-term tax-free "bridge loan" of $25,000 until his real estate closes.

1. On August 11, Smith withdraws $25,000 from IRA-A for this investment.
2. On October 8, 58 days later (and within the 60 day limit), Smith withdraws $25,000 from IRA-B and rolls it over into IRA-A.
3. On December 5, 51 days later, he withdraws $25,000 from IRA-C and rolls it over into IRA-B.
4. Smith receives his $25,000 real estate proceeds in January 2015, and, no later than February 3, 2015, the 60th day after the withdrawal from IRA-C, he must deposit the funds into IRA-C.

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Result.

The taxpayer has managed to arrange a "bridge loan" of $25,000 from his IRAs for over 5 months without having to pay a tax.

Caution.

In the example, the last withdrawal in the chain must take place before January 1, 2015. If Smith were to start his borrowing program later in 2014, and withdraw $25,000 from IRA-C on or after January 1, 2015, the attempted rollover back into IRA-C would run afoul of the new aggregation rule. Under this new rule, a taxpayer won't be able to make an IRA rollover if he or she made such a rollover involving any of the IRAs in the preceding one-year period.

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