Moving your IRA?
New IRS Regulations

Have you ever considered moving your IRA to a new investment house or consolidating multiple IRAs? If so, you should be aware of a change that the IRS has just announced that limits you to one rollover per year. Violating the rule could force you to declare the entire value of your IRA as taxable income for that year, plus pay a 10% penalty if you are under age 59½. With income tax rates now as high as 39.6%, that could have a devastating effect on your retirement funds.

The rule regarding IRA rollovers is that you can either make a "trustee-to-trustee" transfer, in which the money moves directly from the old account to the new account, or you can withdraw the money in the form of a check and deposit that into a new IRA, so long as you do so within 60 days of receiving the check from the first account. Another limitation is that there cannot be more than one IRA withdrawal/rollover per year (but multiple trustee-to-trustee rollovers in the same year are fine).

For decades, the IRS has published guidance stating that the "one-per-year" rule only applies to the actual IRA accounts affected by the rollover. For example, if you were to roll IRA #1 into IRA #3, you would have to wait at least a year before any more rollover activity can take place for either of those accounts. This, however, would not prevent you from rolling IRA #2 into IRA #4 within a year of the rollover involving accounts 1 and 3.

Unfortunately, the Tax Court recently held just the opposite and a taxpayer was penalized for making more than one rollover from more than one IRA in one year. The result for that taxpayer is he must declare the entire amount of the offending rollover as taxable income for that year. And this was not a case of someone who was unaware of the rules but rather the taxpayer was a prominent tax lawyer and former General Tax Counsel for CBS, Inc. In the case, he pointed to the published IRS guidance stating that such rollovers were permissible, but to no avail. Technically, the IRS guidance is not legally binding and the court disagreed with the IRS interpretation of the rule. Now the IRS has announced that it will change its guidance to line up with the court holding.

It would certainly seem reasonable to rely on a rule that the IRS has published for so long, both in print and on its website, and it is disturbing to learn that doing so will not necessarily protect you from penalties. The IRS has stated that its change will not go into effect prior to January 1, 2015 but given the Tax Court holding, the safest course of action is to proceed as if it is in place already.

Contact Us

If we can be of help as you plan tax strategies, or for any estate planning or wealth management issues, please contact your Hemenway & Barnes advisor, or the author of this advisory.

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