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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG- 209459-78]

RIN 1545-BL98

Individual Retirement Plans and Simplified Employee Pensions; Partial Withdrawal

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws part of a notice of proposed rulemaking that specifically relates to rollovers from individual retirement arrangements (IRAs). The partial withdrawal of the proposed regulation will affect individuals who maintain IRAs and financial institutions that are trustees, custodians, or issuers of IRAs.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the proposed amendment to §1.408-4 (b)(4)(ii), published Tuesday, July 14, 1981 (46 FR 36198), is withdrawn.

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter at (202) 317-6700 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 408(d) governs distributions from IRAs. Generally, section 408(d)(1) provides that any amount distributed from an IRA is includible in gross income by the

payee or distributee. Section 408(d)(3)(A)(i) allows a payee or distributee of an IRA distribution to exclude from gross income any amount paid or distributed from an IRA that is subsequently paid into an IRA not later than the 60th day after the day on which the payee or distributee receives the distribution. Section 408(d)(3)(A)(i) and (d)(3)(D)(i). Section 408(d)(3)(B) provides that an individual is permitted to make only one nontaxable rollover described in section 408(d)(3)(A)(i) in any 1-year period.

On July 14, 1981, the **Federal Register** published proposed regulations (46 FR 36198) that would have amended §1.408-4 of the Income Tax Regulations by adding a new paragraph (b)(4)(ii). Those proposed regulations provide that the rollover limitation of section 408(d)(3)(B) is applied on an IRA-by-IRA basis. This rule is reflected in IRS Publication 590, Individual Retirement Arrangements (IRAs). However, section 408(d)(3)(B) provides that the exclusion from gross income for IRA rollovers pursuant to subparagraph (A)(i) does not apply “if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from an individual retirement account or an individual retirement annuity which was not includible in his gross income because of the application of this paragraph.”

Based on the language in section 408(d)(3)(B), a recent Tax Court opinion, Bobrow v. Commissioner, T.C. Memo. 2014-21, held that the limitation applies on an aggregate basis. Thus, under Bobrow, an individual cannot make an IRA-to-IRA rollover if the individual has made an IRA-to-IRA rollover involving any of the individual’s IRAs in the preceding 1-year period. The IRS intends to follow the opinion in Bobrow and, accordingly, is withdrawing paragraph (b)(4)(ii) of §1.408-4 of the proposed

regulations and will revise Publication 590. This interpretation of the rollover rules under section 408(d)(1)(B) does not affect the ability of an IRA owner to transfer funds from one IRA trustee or custodian directly to another, because such a transfer is not a rollover and, therefore, is not subject to the one-rollover-per-year limitation of section 408(d)(3)(B). See Rev. Rul. 78-406, 1978-2 C.B. 157.

In response to comments expressing concern over implementation of the rollover limitation as interpreted in Bobrow, the IRS released Announcement 2014-15, 2014-16 I.R.B. 973, on March 20, 2014. Announcement 2014-15 addresses the application to Individual Retirement Accounts and Individual Retirement Annuities of the one-rollover-per-year limitation of section 408(d)(3)(B) and provides transition relief for owners. Consistent with that Announcement, the 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.

List of Subjects in 26 CFR Part 1

Treatment of distributions from individual retirement arrangements.

Partial Withdrawal of Proposed Rulemaking

For the reasons stated in the preamble and under the authority of 26 U.S.C. 7805, the Internal Revenue Service withdraws the proposed amendment to §1.408-4(b)(4)(ii).

John Dalrymple₁

Deputy Commissioner for Services and Enforcement.