

# Tax Court Will Not Revisit IRA Rollover Decision

A married couple was recently unsuccessful in their motion asking the Tax Court to reconsider *Bobrow*, *TC Memo 2014-21*, *CCH Dec. 59,823(M)*. In *Bobrow*, the court held that a taxpayer could make only one nontaxable rollover contribution within each one-year period regardless of how many IRAs the taxpayer maintained.

**Reconsideration.** In a motion for reconsideration, the taxpayers argued that the court's interpretation of Code Sec. 408(d)(3)(B) was inconsistent with the IRS's published guidance. Publication 590, Individual Retirement Arrangements, applied the Code Sec. 408(d)(3)(B) limitation separately to each IRA.

## Comment

The American College of Tax Counsel filed an Amicus Curiae Brief in support of the couple's motion for reconsideration. The American College of Tax Counsel argued, among other things, that the Tax Court should reconsider its decision to conform with Publication 590.

**Court's order.** The court reminded the taxpayers that the IRS's published guidance is not binding precedent. "Taxpayers rely on IRS guidance at their own peril," the court cautioned. If the taxpayers had argued Publication 590, the argument would not have served as substantial authority for the position taken on their return, the court concluded.

## Comment

In March, the IRS announced it will revise Publication 590 and issue new proposed regs to reflect *Bobrow* ( *Ann. 2014-15*; see the *March 27, 2014 issue of this newsletter for details*). The court noted that the IRS agreed to extend the relief in Ann. 2014-15 (allowing more than one rollover for IRA distributions before January 1, 2015) to the taxpayers in this case, thus reducing their tax liability and Code Sec. 6662 penalty.

*Tax Court Order; TRC RETIRE: 66,702.*