

**Probate & Trust Section, Tax Committee**  
**Tax Updates – February 2014**  
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**GUIDANCE FROM THE IRS**

**Revenue Ruling 2014-6, IRB Bulletin 2014-7 (Feb 10, 2014), February 2014 Rates:**

- Section 7520 Rate: 2.4%
- Short Term AFR (0-3 years): 0.30 %
- Mid Term AFR (3-9 years): 1.97%
- Long Term AFR (over 9 years): 3.56%

**Revenue Ruling 2014-8, IRB Bulletin 2014-11 (March 10, 2014), March 2014 Rates:**

- Section 7520 Rate: 2.2%
- Short Term AFR (0-3 years): 0.28 %
- Mid Term AFR (3-9 years): 1.84%
- Long Term AFR (over 9 years): 3.36%

**Revenue Procedure 2014-20** provides a safe harbor under which the IRS will, under certain defined circumstances, treat indebtedness that is secured by 100 percent of the ownership interest in a disregarded entity that holds real property as indebtedness that is secured by real property for purposes of Section 108(c)(3)(A) of the Tax Code. The revenue procedure will assist taxpayers with mezzanine financing in workouts and similar circumstances. Revenue Procedure 2014-20, will be included in Internal Revenue Bulletin 2014-09 on Feb. 24, 2014.

**Revenue Procedure 2014-18:** This procedure provides a simplified method for certain taxpayers to obtain an extension of time under section 301.9100-3 of the Procedure and Administration Regulations to make a “portability” election under IRC section 2010(c)(5)(A). IRC section 2010(c)(5)(A) allows a decedent’s unused exclusion amount to become available to apply to the surviving spouse’s subsequent transfers during life or at death. In order to receive the automatic extension, the following criteria, in addition to other conditions, must be met:

- 1- A person permitted to make the election on behalf of the decedent must file a complete and properly-prepared Form 706 on or before December 31, 2014. The Form will be considered complete and properly prepared if it is prepared in accordance with section 20.2010-2T(a)(7).
- 2- The person filing the Form 706 must state at the top of the Form that the return is “Filed Pursuant to Rev. Proc. 2014-18 to Elect Portability under Section 2010(c)(5)(A).”

If all requirements have been satisfied, the taxpayer will be deemed to have met the requirements for relief under section 301.9100-3 and relief is granted under the provisions of section 301.9100-3 to extend the time to elect portability under IRC section 2010(c)(5)(A). The taxpayer will receive an estate tax closing letter acknowledging receipt of the taxpayer’s Form 706.

**Reg 154890-79, Fed. Reg. 3142-01(Jan. 16, 2014):** The IRS and Treasury proposed regulations that would determine the gain on certain sales of a noncharitable beneficiary's annuity or unitrust in a charitable remainder trust, as a portion of the uniform basis of the assets contributed to the trust with certain adjustments. The basis will be reduced by the portion of the sum of the amount of undistributed net ordinary income described in IRC sec. 664(b)(1), plus the amount of undistributed net capital gain, described in IRC section 664(b)(2). The propose regulations will apply to sales and other disposition of interests in CRTs after January 15, 2014, except for those occurring under a binding commitment entered into before January 16, 2014.

## CASES

***Bobrow v. Commissioner*, TC Memo 2014-21, Jan. 28, 2014:** The Tax Court ruled that IRC section 408(d)(3)(B)'s one-rollover-per-year rule applies to all of a taxpayer's IRA's, rather than to each IRA separately. The IRS's position in this case, and the Court's holding are in contrary with the IRS Publication 590, Individual Retirement Accounts. Alvan Bobrow, a tax attorney, and his wife Elisa, made a series of distributions and contributions to various IRA accounts during 2008 and claimed that they implemented tax-free rollovers of all distributions, as allowed by IRC 408(d)(3)(A) & (B) as explained in IRS Publication 590. They asserted that IRC section 408(d)(3)(B) limitation is specific to each IRA maintained by a taxpayer, and does not apply across all of the taxpayer's IRA's. The IRS's position, which the Tax Court ultimately agreed with, was that the plain language of IRC section 408(d)(3)(B) limitation is not specific to any single IRA by an individual, but rather applies to all IRAs maintained by the taxpayer. In support of this theory, the Court emphasized the word "an" in each place that it appears in the section.

***Estate of Esgar v. United States*, 2014 WL 183666 (D. Colo. Jan. 16, 2014):** A U.S. District Court sustained a third-party summons issued on a bank for records relating to the value of stock in the bank that was owned by a decedent's estate, to determine the estate tax value of the shares, even though the marital deduction was claimed for the shares. The court held that the IRS could obtain the summons to determine whether the decedent's estate tax return was correctly filed, irrespective of whether additional tax would likely be raised.

## PRIVATE LETTER RULINGS

**IRS Letter Ruling 201403012 (Jan. 17, 2014):** The IRS stated that the termination of a general partnership by distributing its assets to the partners, followed by transferring those assets to a new LLC owned in the same percentage by the same persons, including a decedent's estate, would not result in acceleration of the estate taxes deferred under Code. Sec. 6166, because it did not change the nature of the underlying business.