
Tax Practice and Accounting News


Practice Articles

Tax Notes, Feb. 9, 2004, p. 760
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Roth IRA Conversion Could Require Make-Up Distributions

By Michael J. Jones

Michael J. Jones, CPA, is a partner in Thompson Jones LLP, Monterey, Calif. He serves as a consultant on estate-planning strategy and analysis for attorneys, CPAs, and other professionals. He is a frequent lecturer on estate-planning topics.

Private letter ruling 200352020, *Doc 2003-27110 (6 original pages)* [[PDF](#)], 2003 *TNT 248-17* , granting an extension of time to reconvert a Roth IRA to a traditional IRA, delivered a surprise "punch line" regarding required minimum distributions (RMDs). The extension was granted under reg. section 301.9100-3 relating to discretionary extension of time to make a regulatory election. The Service determined that a make-up distribution was required.

The Roth IRA conversion occurred in 1999, at a time when the IRA participant was past the "Required Beginning Date."

A Roth IRA recharacterization is an election that a taxpayer may make to recharacterize a Roth IRA to a traditional IRA, as permitted under code section 408A(d)(6) and reg. section 1.408A-5. Section 408A(d)(7) provides that the due date for making a Roth IRA recharacterization regarding any tax year is "the date prescribed by law (including extensions of time) for filing the taxpayer's return for such taxable year."

The Roth IRA conversion was not permissible because of the limit on adjusted gross income found in section 408A(c)(3)(B). The adjusted gross income limit of \$150,000 had been exceeded during the year of conversion. Although the participant had tax advisers, the participant was unaware of the failure to qualify until February 2002. Because the taxpayer first became aware of the error after the time for correcting it through a reconversion, the extension was sought under the relief provisions mentioned above.

The extension to reconvert was granted in a ruling dated October 3, 2003. The taxpayers were given 60 days from the date of the letter to reconvert. Therefore,

the reconversion, if it was otherwise effectively accomplished, had to occur in 2003.

RMDs are not required from Roth IRAs during the lifetime of the participant. However, they are required in traditional IRAs. So what happens to the RMDs "missed" in the years when the IRA was a Roth IRA but then was later reconverted?

Analogizing to rules in the final RMD regulations relating to TEFRA section 242(b)(2) elections, the taxpayer was instructed to distribute, from the traditional IRA resulting from the reconversion, RMDs for 1999 through 2003. The make-up distribution has to be accomplished by December 31, 2004. TEFRA section 242(b)(2) provided that taxpayers could elect out of the rules relating to RMDs ushered in by TEFRA and instead be subject to pre-TEFRA rules.

The reasoning in the ruling begins by stating:

[F]inal regulation section 1.401(a)(9)-8, question and answer-16, provides that a section 242(b) election may be revoked after the date by which distributions are required to commence in order to satisfy section 401(a)(9) and the applicable [P. 761](#) section of the regulations. If the section 242(b) election is revoked after the date by which distributions are required to commence in order to satisfy section 401(a)(9) and this section of the regulations and the total amount of the distributions which would have been required to be made prior to the date of the revocation in order to satisfy section 401(a)(9), but for the section 242(b)(2) election, have not been made, the trust must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which was required to have been distributed to satisfy the requirements of section 401(a)(9) and continue distributions in accordance with such requirements.

The ruling then observes that there is no guidance relating to RMDs when a traditional IRA is converted into a Roth IRA and is later reconverted back into an IRA. It also asserts that the reconversion is analogous to the termination of a section 242(b)(2) election in that RMDs must be made for past years. Based on this reasoning the ruling concluded:

The resultant traditional IRA must distribute by the end of the calendar year following the calendar year in which the recharacterization occurs the total amount not yet distributed which was required to have been distributed to satisfy the requirements of section 401(a)(9) of the Code and continue distributions in accordance with such requirements. Taxpayer A is thus granted such relief in order to take his required minimum distributions for 1999 and subsequent years, to the extent not already

taken, from the traditional IRA that results from the recharacterization granted above, should such recharacterization take place.

Now consider the case in which a traditional IRA is converted to a Roth IRA in 2003, and the participant is past the Required Beginning Date. That conversion can be "undone" at the election of the participant by effecting a reconversion to a traditional IRA, as long as the reconversion is completed by the due date of the participant's 2003 income tax return, including extensions. Next, assume that the taxpayer effectively reconverts the Roth IRA back into a traditional IRA during 2004.

If the letter ruling is correct the traditional IRA must also distribute an RMD for 2004, the year of the reconversion. That RMD must be made by December 31, 2005.

Relevant Code Sections

Section 408A -- Roth IRAs

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