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# IRA ADVISOR

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Tax & Estate Planning For Your Retirement Savings

## WHAT'S INSIDE?



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# Pitfalls of the 60-Day Rollover

The 2019 summer movie season is coming to an end, and the undisputed box-office champ is Walt Disney Studio's *Avengers: Endgame*, which has grossed almost $2.8 billion worldwide, making it the highest-grossing movie in history. It just goes to show how much moviegoers love watching comic book heroes manage all those nail-biting, hair-raising escapes from danger.

When it comes to facing the IRS, narrow escapes aren't so fun to watch. Sometimes, they're just too close for comfort – *especially if they could have been easily prevented.*

That's what happened in the recent Tax Court case Nancy Burack v. Commissioner; T.C. Memo. 2019-83; No. 11819-17; July 8, 2019 when a simple IRA rollover spiraled into a five-year ordeal in which the taxpayer just missed being assessed $257,000 in taxes and penalties on a late 60-day rollover.

### The Burack Case

On June 25, 2014, Nancy Burack received a distribution of $524,981 from an IRA. She used the funds to purchase a new home while awaiting the closing of the sale of her former home. Nancy intended to redeposit the sale proceeds back into her IRA with the same financial institution as a 60-day rollover.

On August 21, 2014, Nancy received a check in the same amount from the closing of her old house and, following the instructions of the financial institution, overnighted the check to them.

The institution received the check on August 22, 2014 – *58 days after the June 25 distribution.* However, the bank did not deposit the check into Nancy's IRA account until August 26 – *62 days after the distribution.*

The IRS determined that Nancy's redeposit of funds was not made within the 60-day rollover period and therefore assessed her $524,980 (oddly, a dollar less than the $524,981 distribution amount) of additional taxable income for 2014. This meant she owed more than $257,000 in taxes and penalties.

Nancy appealed to the Tax Court. First, she argued that the late deposit of funds was due to a bookkeeping error on the part of the financial institution. Second, she argued that the payment qualified for an automatic hardship waiver.

The Court accepted both arguments, allowing Nancy to make a Captain Marvel-like escape. But the real significance of the case is not the outcome; it's how vividly the case illustrates several important IRA lessons with which advisors must be familiar.