



# THE Pension Digest

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**Collin W. Fritz and Associates, Inc.,**  
*“The Pension Specialists”*



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## A Person’s 2015 Tax Filing Deadline Is Either April 18, 2016 or April 19, 2016

April 15, 2016 is a Friday. For the reasons discussed below, April 15th is NOT the filing deadline or the last day to make IRA contributions for tax year 2015.

Residents of Massachusetts and Maine have until April 19th, 2016 (a Tuesday) to file their 2015 federal income tax returns and make their 2015 IRA contributions. Residents of the other 48 states have until Monday, April 18, 2016.

The IRS recently issued Rev. Rul 2015-13 to discuss for 2015 tax purposes the interplay between two different holidays, Emancipation Day and Patriot’s Day and the rule that a tax return is considered timely if it is filed on the next succeeding day that is not a Saturday, Sunday or legal holiday.

Emancipation Day is a legal holiday recognized in the District of Columbia. The IRS has ruled that the observance of this legal holiday has implications nationwide. Emancipation Day is April 16th of each year. However, if the 16th falls on Saturday, the holiday is observed on the preceding Friday (i.e. the 15th) and if the 16th falls on Sunday, it is observed on the following Monday (i.e. the 17th). In both cases the tax filing deadline of April 15th will be revised since the tax filing deadline cannot be a Saturday, Sunday or legal holiday. It will be the next day following a Saturday, Sunday, or legal holiday which itself is not a Saturday, Sunday or legal holiday.

Patriot’s Day is a legal holiday in the states of Maine, and Massachusetts. It is observed on the third Monday in April. April 18, 2016 is the third Monday in April.

Because some taxpayers could elect to file their federal income tax returns by hand in Massachusetts and Maine at their local IRS office on Monday April 18, 2016, and their deadline would be April 19th since April 18th is a state holiday, the IRS has ruled that all residents of Massachusetts and Maine will have until April 19, 2016 to file their 2015 tax return and make IRA contributions for 2015.

The deadline for the residents of the other 48 states is Monday, April 18, 2016.

However, the deadline for a taxpayer to make his or her estimated tax payments for the fourth quarter 2015 and the first quarter for 2016 is April 18, 2016 for everyone, including the residents of Massachusetts and Maine.

**Email Guidance,**  
**Continued from page 5**

life expectancy commencing the year after her mother died. She may take more than the RMD, but she should not take less as she would owe the 50% excise tax on the missed RMD. The missed RMD is also called an excess accumulation. Since she isn’t eligible to use the 5 year rule, she will owe the 50% on her excess accumulation if she fails to take the RMD for any year following the year the account holder died.

## **IRS Adopts Permanent Penalty Relief Program for Sponsors of One Person Plans Who Failed to File One or More 5500-EZ Forms, Including For a Terminated Plan**

The IRS had a special tax relief program which ended on June 2, 2015. It was adopted to help individuals and partnerships which failed to file one or more 5500-EZ forms. By filing the missed Form 5500-EZ filings by June 2, 2015 a taxpayer was able to be relieved from paying the maximum penalty of \$15,000 per year. In fact, no penalty amount was required to be paid. The IRS is normally not this forgiving. The IRS had announced this special program in Revenue Procedure 2014-32 as published on May 16, 2014.

In the May 2014 Pension Digest two articles discussed the special temporary program. One article was titled, "Confusion Exists for Completing IRS Form 5500-EZ for Terminated One-Person QP Plans." The other article was titled, "IRS Grants Temporary Relief to Sponsors of One-Person Plans Who Failed to File One or More 5500-EZ Forms, Including for a Terminated Plan."

Now in Revenue Procedure 2015-32 the IRS has adopted a permanent program allowing an employer to pay a modest penalty amount and thereby the employer will no longer be liable for the \$15,000 per missed year penalty amount. Until now, the IRS has not had a permanent correction program for one person plans.

An employer must pay the proper correction payment amount. The amount is \$500 per delinquent return up to a maximum of \$1,500 per submission. Multiple delinquent returns for a single plan may be submitted in a single submission. For example, an employer with four delinquent returns would file all four returns and pay \$1500. Form 14704 must be completed along with a check for \$1500.

This correction relief applies on a per plan basis. An employer with two plans would need to make two submissions. For example, an employer delinquent with respect to both a profit sharing plan and a money purchase plan must make two submissions.

This relief is unavailable if the IRS has already fur-

nished to the plan sponsor or administrator a CP 283 Notice, Penalty Charged on Your Form 5500 Return for an applicable delinquent year.

### **IRS Submissions Contents.**

The applicable Form 5500-EZ for each missed or delinquent year must be completed, signed by the sponsor and submitted. A complete return includes all applicable schedules. A complete return consists of a signed, filled-out paper version of Form 5500-EZ for the year the filer is delinquent. It is impossible for an individual to make his or her filing by using the DOL's EFAST2 filing system. A Form 5500-SF may not be filed as a substitute for the missed Form 5500-EZ. The IRS warns a sponsor that any attempt to use the DOL's EFAST2 filing system would subject the filer to the \$25 per day penalty to a maximum of \$15,000.

The paper version of Form 5500-EZ may either be ordered from the IRS or the electronic version may be printed from the IRS website. A special procedure will need to be used for years prior to 1990.

The submission should be mailed to: Internal Revenue Service, 1973 North Rulon White Blvd., Ogden, Utah, 84404-0020. An applicant may choose to use a private delivery service rather than the U.S. postal service. An applicant would need to comply with the special IRS rules for using an eligible private delivery service.

Each delinquent return must be marked to put the IRS on notice that the return is being submitted under Revenue Procedure 2015-32. "The applicant must mark in red letters in the top margin of the first page (above the title of the form): Delinquent return submitted under Rev. Proc. 2015-32, Eligibility for Penalty Relief." Failing to mark the return in the manner, allows the IRS to return the submission and then assess all of the applicable penalties.

The IRS has created a new Form, 14704. It must be completed and attached to the front of of each delinquent return. For example, if a submission is for delinquent years 2010- 2013, the Form 14704 must be attached to the 2010 return. Again, failing to follow the instructions allows the IRS to return the submission and then assess all of the applicable penalties.

Who will want to use or consider using this special correction program? Those individuals have failed to file a Form 5500-EZ for a specific year(s) will generally want to use this new procedure to obtain tax certainty.

For example, Sarah Andrews, a sponsor of a one person profit sharing plan failed to file a 2011 Form 5500-EZ even though her profit sharing plan had a balance of \$255,000 as of December 31, 2011. Sarah forgot that a filing was required when the plan balance exceeded \$250,000 as of any December 31st. She did file the 2012 Form 5500-EZ showing a year-end balance of \$295,000 and the 2013 Form 5500-EZ showing a year end balance of \$335,00. Sarah will wish to use this special pilot program to file her missed 2011 Form 5500-EZ and avoid the penalty amount due of \$15,000.

Another example, if John Doe terminated his profit sharing plan in 2011, but he did not file the 2011 Form 5500-EZ because it only had plan assets of \$135,000, he may find it worthwhile to eliminate any tax uncertainty by filing the 2011 Form 5500-EZ using the procedures set forth in Rev. Procedure 2015-32.

In summary, the IRS has created a permanent relief program allowing individuals who did not file a Form 5500-EZ for one or more years when required to file such form(s) to pay a correcting payment amount. In the termination situation, arguments can be made whether the IRS has the authority to require the filing of the form. Rather than having tax uncertainty or having to litigate the issue with the IRS, some individuals and employers may find it easiest for them to simply file the nonfiled form and pay the \$500, \$1,000 or \$1,500 as applicable.

Department of the Treasury - Internal Revenue Service <b>Transmittal Schedule – Form 5500-EZ</b> <b>Delinquent Filer Penalty Relief Program</b> <b>(Revenue Procedure 2015-32)</b> <i>(Attach to Oldest Delinquent Return in this Submission)</i>		OMB Number 1545-0056
Form <b>14704</b> (May 2015)		
1. Applicant's name (plan sponsor or plan administrator)		
2. Applicant's street address		
3. City or town, state and zip code (include foreign country name, province/county and zip code, if applicable)		
4. Applicant's Employer Identification Number (do not use a Social Security Number)		5. Applicant's telephone number
6. Plan number	7. Plan name	
8. Indicate the last day of the plan year for each delinquent return included in this submission (enter MM/DD/YY)		
9. Check the applicable box below for the amount of payment		
Number of Delinquent Returns in this Submission		Amount of Payment (choose one)
(a) One delinquent return		<input type="checkbox"/> \$500
(b) Two delinquent returns		<input type="checkbox"/> \$1,000
(c) Three or more delinquent returns		<input type="checkbox"/> \$1,500

## Answers to IRA Test #501

IRA Test #501 was published in the April newsletter on pages 6-8. It maybe found at [www.pension-specialists.com](http://www.pension-specialists.com). Set forth below are the answers to the test questions and an explanation.

- (b) or false is the correct answer. A new tax law extending the qualified charitable distribution rules for 2015 or any subsequent year has not been enacted as of June 1, 2015.
- (c) is the correct answer. A transfer between two Roth IRAs is a nonreportable transfer as there is no box on the Form 5498 to report a transfer contribution.
- (b) is the correct answer. Although the new once per year rollover rule when into effect on January 1, 2015 restricting a person who had multiple IRAs to only rollover one distribution, the old rule that a person must wait 12 months if he or she has taken a distribution from a particular IRA and rolled it over still means this person is ineligible to rollover any subsequent distribution occurring from that same IRA if occurring within the 12 month period.
- (a) is the correct answer. A person or business with a tax extension is able to change the contribution deadline for a SEP-IRA contribution, but not for a traditional IRA or Roth IRA contribution.
- (c) is the correct answer. A major tax law was enacted in 1986 and it went into effect as of January 1, 1987. Due to revenue needs, many individuals who were participants in 401(k) plans and whose income exceeded a certain limit lost the right to claim a tax deduction for some portion of all of their IRA contribution. Such individuals were still allowed to make contributions now known as nondeductible contributions. Such contributions still receive the tax benefit of tax deferral of the interest earning on such contributions. Nondeductible contributions do not need to be included in a person's income when withdrawn. There is a special prorata taxation rule.
- (a) or True is the correct answer. Code section 402 (c) (3) (B) and Code section 408 (d) (3) (I) grants the

IRS the authority to waive the 60 day rollover requirement if the failure to waive this requirement would be against equity or good conscience, including casualty, disaster or other events beyond the reasonable control of the individual subject to the requirement. Prior to 2002 the IRS had always contended the law did not allow the IRS to grant any relief to a person who had not complied with the 60-day rule. The IRS now has a special procedure where the a person after paying a filing fee may request the IRS to waive the 60 day rule and grant a new 60-day rollover period. The IRS has the authority to waive the 60-day requirement. It has no authority to waive other rollover requirements.

7. (b) or False is the technically correct answer. This is true notwithstanding the fact that the IRS in Announcement 2014-15 announced it would be applying the new once per year rollover rule only for 2015 and later years and not for 2014. There is no statutory authority for the IRS' position. For public relations reasons (i.e the IRS had published an incorrect rule), the IRS in effect did waive the once per year rollover rule for 2014 even though the law does not give the IRS the authority to do so.
8. (c) is the correct answer. IRS reason code 3 is used to describe a person who has received a distribution from a traditional IRA, SEP-IRA or SIMPLE IRA (2 year requirement met) and who is under the age of 59<sup>1/2</sup>. If disabled, a person even though not 59<sup>1/2</sup> or older does not owe the 10% tax.
9. (b) is the correct answer. IRS reason code 7 is used to describe a person who has received a distribution from a traditional IRA, SEP-IRA or SIMPLE IRA and who is age of 59<sup>1/2</sup> or older. The 10% tax is never owed by a person age 59<sup>1/2</sup> or older.
10. (c) is the correct answer. IRS reason code 2 is used to describe a person who has received a distribution from a traditional IRA, SEP-IRA or SIMPLE IRA (2 year requirement met), who is under the age of 59<sup>1/2</sup> and who then makes a conversion contribution to a Roth IRA. Since the public policy is to encourage younger individuals to make conversions, the 10% tax is not owed on the conversion amount. If this person would withdraw the conversion amount

within a 5 year time period, he or she will the 10% tax on such distribution even though the distribution itself would not be taxable.

11. (b) or False is the correct answer. There is no statutory authority for the IRS to waive the rule that a person is ineligible to rollover a required distribution. It does not matter if the mistake is due to the 401(k) administrator or another IRA custodian.
12. (b) or False is the correct answer. There is no statutory authority for the IRS to waive the rule that a person who has inherited an IRA or a 401(k) balance may receive a distribution and then roll it over. It does not matter if the mistake is due to the 401(k) administrator or another IRA custodian.
13. (d) is the correct answer. The IRS reason code "R" is used to describe the distribution deemed to have occurred when a person recharacterizes in 2015 a contribution originally made in 2014. Code "N" is used if the two transactions occur during the same year and if the contribution was made for such year.
14. (c) is the correct answer. The tax impact of doing a recharacterization of a contribution is that nothing is taxable (0.00) as the contribution is deemed made to the second type of IRA and not the first to which the actual contribution was made.
15. (a) or True is the correct answer. All taxable IRA funds are now eligible to be rolled over or directly rollover over from an IRA to an 401(k) plan or other retirement plan. IRS reason code G is used by the 401(k) administrator to report a direct rollover to an IRA and is also used by the IRA custodian when IRA funds are sent (direct rollover) to the 401(k) administrator for the benefit of the individual.
16. (c) is the correct answer. IRS reason code 4 only applies to distributions to a beneficiary of a traditional IRA. The five year rule has not been met by either the deceased Roth IRA owner or the beneficiary. This means reason code "T" is to be used because either the "T" or the "Q" is used to describe a payment of a Roth IRA beneficiary. The "Q" does not apply since the distribution is not qualified as the five year rule has not been met.



17. (d) is the correct answer. The IRA itself as a separate legal entity does not pay tax with respect to the interest added to the IRA as such interest is tax-deferred. A Form 1099-INT is not to be prepared.
18. (b) is the correct answer. Roth IRA funds are ineligible to be moved into a 401(k) plan, even a designated Roth account. Therefore, the IRS has no code for such a transaction.
19. (d) is the correct answer. The five year rule has been met. Thus, the distribution to the nonspouse beneficiary is qualified (Q). If needed, the time period of the decedent is added to the time period of the beneficiary to determine when the five year requirement has been met.
20. (b) is the correct answer. Senator Roth died in 2003. He was a Senator from the State of Delaware and chairman of the Senate Finance Committee at the time the tax law was enacted in 1997 authorizing Roth IRAs. This law was the Taxpayer Relief Act of 1997.

## Email Guidance

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**Q-1. IRS Reporting of an IRA Transfer.** I have a customer who divorced last year and we transferred the ex-wife's portion to her. We do not have a specific transaction code for divorces so we used a transaction titled 'Transfer to Spouse'. He has a Traditional IRA.

My question, What IRS code should we be using on his 1099-R, if he is to receive one; or where would you go to find out?

A transfer from one spouse's IRA to the other spouse's IRA is a nonreportable transfer and such transaction is not to be reported on a Form 1099-R for him.

So she should not be receiving a 5498?

**A-1.** The 2014 Form 5498 must be prepared for her if she has an IRA as of 12-31-14 with your bank. The fact that the funds were transferred into her IRA and there is no box on the form 5498 to report the transfer contribution does not mean the form is not prepared. Box 5 must be completed to report the FMV.

**Q-1a.** Ok, I understand.

When she received the funds from her ex-husband, we treated it as a rollover not a transfer. How will this affect her or does it not matter?

**A-1a.** You want to treat it as a transfer. I would think you can still change your transaction code as the 2014 5498's are not filed until June 2015.

**Q-2. HSA Contributions After Age 65.** I have a customer who turned 65 this year in January. He would like to know if he can contribute anything to his Health Savings account this year. Is it true you cannot contribute to an Health Savings after age 65? If so, he is wondering if it is a pro-rated amount to his birthday or if he is simply prohibited if he turns 65 at any point during the year?

**A-2.** A person is ineligible to contribute for the month he or she attains age 65 and every subsequent month. If someone attained age 65 in March, he would be eligible to make a prorata contribution for January and February. A person attaining 65 in January of 2015 is unable to make a prorata contribution for 2015.

**Q-3. Nonspouse Inherited IRA.** Can I pick your brain and make sure I am on the right track? We have a Non-spousal Inherited IRA that is coming up on 5 years. Facts:

1. Mother died 9/7/09, and was taking RMD before she died
2. Daughter was designated beneficiary on the IRA, and 62 years old at her mother's death
3. Daughter took RMD from the inherited IRA on 12/7/10 and every year since then
4. This Dec is 5 years after mother's death
5. Current balance is \$8,000

Can the daughter stretch out the RMD's over her life expectancy? Or is she required to take the balance of the inherited IRA by Dec 2014?

I appreciate any help you can provide about this Non-spousal inherited IRA,

**A-3.** The 5 year rule does not apply when the IRA grantor dies on or after her required beginning date. This is your situation. The beneficiary (if a nonspouse beneficiary) is required to take an RMD based on her

## Preliminary Tax Data – IRA/Pension Statistics for 2013

The IRS has recently issued preliminary tax data for tax year 2013. The number of filed returns increased from 144.9 million to 147.7 million. Taxable income increased to \$6.4 trillion from \$6.36 trillion. Total tax liability increased to \$1.2 trillion. An increase of 14.5%. The amount of funds being withdrawn from pension plans increased (\$652 billion for 2013 versus \$623 billion for 2012) and the amount of IRA distributions decreased (\$213.5 billion for 2013 versus \$229 billion for 2012). The amount being contributed to pension plans and IRAs changed as discussed below.

These statistics are preliminary statistics in the sense they were devised by an IRS economist using a sample of tax returns to make estimates.

Note that 901,603 self-employed individuals contributed 20.2 billion to their profit sharing, SEP and SIMPLE plans, whereas 2.765 million IRA accountholders contributed 13.27 billion. There should be special marketing efforts to your customers who are self-employed.

**CHART A – SEP/SIMPLE/Profit Sharing Chart**

<u>Year</u>	<u>Contribution Amount</u>	<u>Number of Contributors</u>	<u>Average Contribution</u>
2003	\$16.9 billion	1.19 million	\$14,202
2004	\$18.0 billion	1.17 million	\$15,385
2005	\$19.4 billion	1.20 million	\$16,202
2006	\$20.2 billion	1.18 million	\$17,200
2007	\$20.1 billion	1.14 million	\$17,720
2008	\$18.5 billion	.97 million	\$19,072
2009	\$17.5 billion	.88 million	\$19,780
2010	\$17.2 billion	.87 million	\$19,776
2011	\$17.6 billion	.87 million	\$20,256
2012	\$19.2 billion	.88 million	\$21,843
2013	\$20.2 billion	.90 million	\$22,364

**CHART B – Traditional IRA Chart**

<u>Year</u>	<u>Contribution Amount</u>	<u>Number of Contributors</u>	<u>Average Contribution</u>
2003	\$10.16 billion	3.46 million	\$2,936
2004	\$10.20 billion	3.38 million	\$3,018
2005	\$12.21 billion	3.29 million	\$3,707
2006	\$12.77 billion	3.29 million	\$3,885
2007	\$13.19 billion	3.37 million	\$3,914
2008	\$11.91 billion	2.78 million	\$4,284
2009	\$11.49 billion	2.64 million	\$4,358
2010	\$11.71 billion	2.63 million	\$4,449
2011	\$11.26 billion	2.62 million	\$4,302
2012	\$12.05 billion	2.61 million	\$4,608
2013	\$13.30 billion	2.77 million	\$4,797

### Deductible Traditional IRA Contributions

The number of tax returns claiming a deduction for a traditional IRA contribution decreased by .1%.

The amount contributed to traditional IRAs increased to 13.30 billion from 12.05 billion. This was a 10.4% increase.

### What was the AGI of those who made traditional IRA contributions for 2013?

	<u>Under \$15,000</u>	<u>\$15,001 to \$29,999</u>	<u>\$30,000 to \$49,999</u>	<u>\$50,000 to \$99,999</u>	<u>\$100,000 to \$199,999</u>	<u>\$200,000 Or more</u>	<u>Total</u>
Number of Returns	115,247	287,165	581,318	1,011,344	629,495	141,203	2,765,771
% of Total Returns	4.17%	10.38%	21.02%	36.57%	22.76%	5.10%	100%
Contribution Amt. (in thousands)	\$346,395	\$954,275	\$2,227,860	\$4,748,741	\$3,644,948	\$1,346,199	\$13,268,417
% of Total Contr.	2.61%	7.19%	16.79%	35.79%	27.47%	10.15%	100%
Avg. Contr. Amt.	\$3,005	\$3,323	\$3,832	\$4,695	\$5,790	\$9,534	\$4,797

### CWF Observations

1. The average IRA contribution, per return, was \$4,797 for 2013.
2. 36.6% of all IRA contributions came from individuals with AGI between \$50,000-\$99,999.
3. 84.4% of all IRA contributions for 2013 came from individuals with AGI of \$50,000 or More.

### IRA and SEP/SIMPLE/Keogh Deductible Contributions

1. The number of tax returns claiming a deduction for a self-employed person's contributions to a profit sharing, SEP or SIMPLE basically did not change (.88 million vs. .90 million).
2. The amount contributed by self-employed individuals to a profit sharing plan, SEP or SIMPLE increased from 19.2 billion to 20.2 billion. A 5.2% increase.

### What was the adjusted gross income (AGI) of those who made SEP/SIMPLE/Keogh contributions?

	<b>Under \$15,000</b>	<b>\$15,001 to \$29,999</b>	<b>\$30,000 to \$49,999</b>	<b>\$50,000 to \$99,999</b>	<b>\$100,000 to \$199,999</b>	<b>\$200,000 Or more</b>	<b>Total</b>
Number of Returns	18,274	30,901	30,188	136,225	276,313	409,701	901,603
% of Total Returns	2.03%	3.43%	3.35%	15.10%	30.65%	45.44%	100%
Contribution Amt. (in thousands)	\$78,050	\$124,335	\$231,302	\$1,510,649	\$4,703,596	\$13,515,264	\$20,163,195
% of Total Contr.	.39%	.62%	1.15%	7.49%	23.32%	67.03%	100%
Avg. Contr. Amt.	\$4,271	\$4,024	\$7,662	\$11,089	\$17,023	\$32,988	\$20,364

### CFW Observations on SEP/SIMPLE/Keogh Contributions for 2013

1. The average contribution per return is \$22,364 for 2013.
2. 67.03% of contributions (\$13.5 billion) come from individuals with AGI of \$200,000 or more.
3. 90.43% of contributions (18.2 billion) come from individuals with AGI of more than \$100,000.
4. Note that 901,603 self-employed individuals contributed 20.2 billion to their profit sharing, SEP and SIMPLE plans whereas 2.765 million IRA accountholders contributed 13.3 billion. There should be special marketing efforts to your customers who are self-employed.

### Taxable IRA Distributions for 2013

(Based on AGI)

	<b>Under \$15,000</b>	<b>\$15,001 to \$29,999</b>	<b>\$30,000 to \$49,999</b>	<b>\$50,000 to \$99,999</b>	<b>\$100,000 to \$199,999</b>	<b>\$200,000 Or more</b>	<b>Total</b>
Number of Returns	1,812,263	1,906,569	2,157,968	4,130,223	2,581,639	880,771	13,469,433
% of Total Returns	13.45%	14.15%	16.02%	30.66%	19.17%	6.55%	100%
Distribution Amt. (in thousands)	\$9,668,957	\$14,268,216	\$20,878,004	\$62,306,042	\$65,359,029	\$41,076,590	\$213,556,898
% of Total Distrib.	4.53%	6.68%	9.78%	29.18%	30.60%	19.23	100%
Avg. Distrib. Amt.	\$5,335	\$7,484	\$9,675	\$15,085	\$25,317	\$46,637	\$15,855

### CFW Observations

1. 13.47 million returns reported a taxable IRA distribution.
2. There were taxable IRA distributions of 213.5 billion.
3. The average distribution was \$15,855.
4. As one would expect, the average distribution was larger for those with higher incomes.
5. 70.91% of the taxable distributions (\$169 billion) arose from those returns showing AGI of \$50,000 or more.

**Pension Distributions for 2013**

**(Based on AGI)**

	<u>Under</u> <u>\$15,000</u>	<u>\$15,001 to</u> <u>\$29,999</u>	<u>\$30,000 to</u> <u>\$49,999</u>	<u>\$50,000 to</u> <u>\$99,999</u>	<u>\$100,000 to</u> <u>\$199,999</u>	<u>\$200,000</u> <u>Or more</u>	<u>Total</u>
Number of Returns	3,961,570	4,679,336	4,875,312	8,540,967	4,816,296	1,298,538	28,172,019
% of Total Returns	14.06%	16.61%	17.31%	30.32%	17.10%	4.60%	100%
Distribution Amt. <b>(in thousands)</b>	\$26,938,846	\$58,207,373	\$85,331,781	\$222,719,349	\$191,271,948	\$67,474,086	\$651,943,383
% of Total Distrib.	4.13%	8.93%	13.09%	34.16%	29.34%	10.35%	100%
Avg. Distrib. Amt.	\$6,800	\$12,439	\$17,503	\$26,077	\$39,713	\$51,961	\$23,141

**Observations**

1. 28.2 million returns reported a taxable pension distribution.
2. There were taxable pension distributions of 652 billion.
3. The average distribution was \$23,141.
4. As one would expect, the average distribution was larger for those with higher incomes.
5. 73.85% of the taxable distributions (\$481 billion) arose from those returns showing AGI of \$50,000 or more.

**The Interplay of RMDs and Rollovers**

A person is never eligible to rollover a distribution which is a required distribution. It does not matter if the distribution is coming from an IRA or a 401(k) plan or similar plan, if the distribution is a required distribution it is ineligible to be rolled over.

What distributions are required distributions? Does the IRA grantor or the 401(k) participant have the right to decide which distribution is a required distribution and which distribution is not? Common sense says that the person does not have this right and the IRS has written a regulation providing such. A distribution from the IRA or 401(k) plan is considered to be a required distribution and ineligible to be rolled over until 100% of the required distributions have been withdrawn.

The problem is, the IRS has done a poor job of informing the public (and 401(k) administrators) of this governing rule set forth in Regulation 1.402(c)-2.

The following statement is made in IRS Publication 590A, Contributions to IRAs,

**Required distributions.** Amounts that must be distributed during a particular year under the required distribution rules (discussed in Publication 590-B) are not eligible for rollover treatment.

The following statement is made in IRS Publication 590B, Distributions from IRAs,

Distributions not eligible for rollover. Amounts that must be distributed (required minimum distributions) during a particular year are not eligible for rollover treatment.

In Notice 2014-74, the IRS furnished a Safe Harbor Explanation - Eligible Rollover Distributions which an employer can use to satisfy its statutory requirement to explain the rollover rules to a terminating participant before the participant instructs how he or she wishes to have the distribution processed.

In this Notice, the IRS fails to explain the rule that since a required distribution is required to be distributed from a 401(k) or other employer plan before any non-required distribution, any required distribution is ineligible to be rolled over.

We will suggest to the IRS that this additional explanation be made; sometimes they adopt our suggestions, but many times they do not. Fewer invalid rollovers (i.e. excess contributions) would be made and fewer corrections would need to be made if the IRS made clear the rule, no rollover is possible until the person's RMD has been satisfied.