THE Pension Digest

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# Which Identification Number to Use for Tax, IRA & Keogh Plan Reporting

## *... An Explanation of EINs, TINs and FINs*

The purpose of this article is to discuss which EIN, TIN or FIN should be used in various IRA and qualified plan situations. It covers those situations in which a financial institution is an IRA or QP custodian/trustee, but discusses other situations also.

The initials E-I-N stand for Employer Identification Number, while T-I-N stands for Taxpayer Identification Number. The initials F-I-N stand for Federal Identification Number. These terms are often used interchangeably and this can be confusing.

The IRS uses these numbers to keep track of the various tax entities: individuals, sole proprietors with no employees, sole proprietors with employees, partnerships, for-profit corporations, not-for profit corporations, trusts, estates, trusts associated with pension plans, etc.

Essentially, when a business entity applies for such a number, it is applying (per the IRS Form SS-4) for an Employer Identification Number, or EIN. This is the only identification terminology referenced on the SS-4 form.

Where the terms TIN and FIN come into play, however, is on the various reporting forms used by the IRS. Some forms may ask for a TIN, others an FIN. Thus it is understandable that both financial institution personnel and employers may sometimes be confused. We hope this article sheds some light on the situation.

In some situations the discussion will show that it is correct to use only one EIN/TIN/FIN. In other situations, the number which should be used will depend on the arrangement between the financial institution and the sponsor (as in a multiple participant QP plan). For example, the financial institution and the business sponsoring a QP plan may decide to allow the financial institution as the custodian/trustee to prepare the 1099-R forms and related withholding forms rather than have these duties performed by the plan and the plan administrator. In this case, the EIN of the financial institution will be used to prepare the Form 1099-R and related withholding forms.

For the purposes of this article we have created a fictitious financial institution with the name First National Bank of Newtown. It is a corporation with 89 employees. It has IRAs and qualified plans on the retail side of the bank. Some are self-directed. It has IRAs and qualified plans on the trust side of the bank and most assets are invested in non-bank securities/assets. The bank sponsors a money purchase plan and a 401(k) profit sharing plan for its own eligible employees.

### *First National Bank of Newtown as a Taxpayer and Employer*

The IRS has issued First National Bank of Newtown the EIN of 36-1234567. The IRS uses this number to specifically identify the bank as a tax entity. The corporation will need to insert 36-1234567 on its corporate income tax return and also on Form 941 which deals with the withholding of payroll taxes from the wages of its employees.

### *First National Bank of Newtown as a Sponsor of a Money Purchase Plan and Trust and a 401(k) Profit Sharing Plan and Trust for its Own Employees*

The bank corporation can sponsor one or more qualified plans. Each plan will have a related trust. The rule is that a QP trust is not subject to current taxation as long as the plan is "qualified" by meeting IRS standards.

As a sponsor of a plan, the corporation will be required to file the Form 5500-C/R, which is the plan's tax return. This form asks for the Employer Identification number which, of course, is 36-1234567.

The trust for each plan, however, is a separate legal entity. The corporation should request the IRS to issue a special EIN for the money purchase trust (let's assume 36-2222333) and another one for the 401(k) profit sharing trust (let's assume 36-4455667).

The special EIN for the QP trust will be used in at least two situations. First, the plan trustee owns the plan assets on behalf of the trust. Thus, the trustee will need to furnish the trust's EIN as owner. For example, let's

*Continued on page 3*

# Reclassifying IRA "Marital Property" Was Not Deemed Distribution

Among the numerous restrictions on IRA plans, are those prohibiting assignment, loans, pledging as security, etc., with respect to an IRA's assets. Actions such as these are clearly prohibited, and result in an IRA being considered – or deemed – distributed in that year, with all of the resulting tax consequences.

But some IRA actions fall within "gray areas" of the Code. This was the case in IRS Letter Ruling 9419036. This ruling dealt with an agreement between married spouses to have an IRA owned by one spouse reclassified as "marital property," when it would not otherwise be so classified under state law. Would this reclassification of individually owned IRA assets give rise to a deemed "taxable distribution," with resulting tax consequences?

### *Here are the case facts in simplified summary form:*

The state in which this couple resided enacted a marital property law that gave each spouse an undivided one-half interest in each item of marital property, which included most forms of income, including

*Continued on page 4*

## Also in this issue –

# 1099Rs & 5498s

## When NOT to Report IRA, QP Asset Movements

When a financial institution is custodian or trustee for an IRA plan, or trustee of a qualified plan for business customers, it is generally responsible for the reporting of certain movements or changes in plan assets. In the case of an IRA, a distribution – including a rollover – is reported on Form 1099-R. A contribution – also including via rollover – is also reported, in this case on Form 5498. In this manner, QP distributions are also reported, on the Form 1099-R.

But what happens to reporting responsibilities when a financial institution is the "repository" of plan funds, but does **not** function in the role of custodian or trustee in the case of an IRA, or trustee of a QP?

### *Example: An IRA Situation ...*

Susan Jones has an IRA at First Farmers National Bank, with an account balance of $150,000. Since the maximum insurance coverage on this plan (and potentially other plans aggregated with it) is $100,000, $50,000 of her IRA assets are without FDIC insurance protection. To avoid this risk, $50,000 of her IRA assets are moved to Second Marine National Bank. When receiving these funds, Second Marine must record who is the custodian/trustee of the IRA plan, and clearly identify the plan.

(If a SEP plan, this same identification of the custodian institution is also necessary.)

The reporting that will be done with respect to the $50,000 held at Second Marine will actually be done by, and using the EIN number of, First Farmers. (However, in this situation a separate EIN for First Farmer's National's role as trustee would be used, not its corporate EIN. See article on page 1 for further discussion.)

At 5498 IRA contribution reporting time, Second Marine National – which does not play a custodian/trustee role for these funds – should **not** prepare a 5498 form. That is the responsibility of First Farmer's, the custodian/trustee. Distributions are handled similarly. If Second Marine uses an IRA data processing package that includes 5498 and 1099-R reporting, this function must be "disabled" with respect to this account. (If recordkeeping is handled using a non-IRA system, Second Marine should **not** prepare a 1099-INT for interest earned by this plan.)

When the IRA funds eventually leave Second Marine, their departure **should not** be recorded as a distribution, rollover or transfer. This would likely create dual reporting for the same plan assets. Instead, the check for the departing funds should be issued to the custodian/trustee of the plan, who will handle the reporting and – if called for – disburse the funds to the accountholder.

### *A QP Comparison*

In the case of a qualified plan for which an institution is not the trustee, the same logic applies. The institution should record who is the trustee of the plan when it accepts a deposit. When a withdrawal is taken, the check should be made out to the trustee, not an individual as "private citizen." If the trustee happens to be a person (as it can be with a QP, but not an IRA), the check could be made out to "Dr. Dean Smith as trustee of the plan of Dr. Dean Smith."

As with the IRA plan example, no contribution or distribution – or 1099-INT – reporting is done by an institution that is not a trustee. PD

## "No Surprises" in Final Rules on New $150,000 Compensation Limit

**Although little more than a procedural formality, the IRS on June 23 issued its "final rules" on the annual compensation limit for tax qualified retirement plans under Code section 401(a)(17). This applies to SEP and qualified plans, as well as certain collectively bargained plans and governmental plans. These changes, as most are well aware, were part of the Omnibus Budget Reconciliation Act of 1993. They prescribe the maximum amount of an employee's compensation that can be used by the employer to base contributions or benefits on, and the maximum amount that can be considered in determining allocations or accruals.**

**For plan years beginning on or after January 1, 1994, the former limit of $200,000 ($235,840 as indexed for 1993) has for SEPs and qualified plans been reduced to $150,000. The indexing mechanism, or cost of living adjustment, has changed, too. While formerly an annual adjustment matching the Section 415 COLA factor, future adjustments will only be made when the accumulated increases total $10,000 or more. For example, the first adjustment will not take place until the annual adjustments would raise the indexed amount to $160,000 ($150,000 + $10,000 = $160,000).**

**This, as we've said, is not new information, but a summary of the most significant changes affecting tax qualified retirement plans.**

### *Rules Modification: Prorating of Maximum Compensation Limit*

**The only new modification we find worthy of special mention relates to qualified plans, and to the prorating of income when compensation for a period of less than 12 months is used for a plan year. The maximum compensation limit for such an employee is not determined by applying the strict monthly proration calculation of 1/12th (1/12 x $150,000 maximum = $12,500), and multiplying by the number of months in the compensation period. Instead, the maximum compensation limit of $150,000 still may be applied even though compensation was earned over less than 12 months.**

**This clarification by the IRS was made in response to comments on the proposed regulations received during the public (written) comment period.** PD

**EIN/TIN/FIN**—*Continued from page 1*

assume that Jill Halverson, trustee of the First National Bank of Newtown 401(k) profit sharing plan, decides to buy $45,000 of a mutual fund on behalf of the trust. As trustee she will furnish the 401(k) trust's EIN (36-4455667) and not the corporation's EIN (36-1234567).

Second, the Schedule P which is an attachment to the Form 5500-C/R asks for the trust's EIN (36-4455667) and the EIN of the plan sponsor as shown on the Form 5500-C/R, 36-1234567).

### *First National Bank of Newtown as an IRA Custodian/Trustee of 1,000 Non-Self-Directed IRAs and 50 Non-Self-Directed Qualified Plans*

In this case all deposits are invested in the bank's own time deposits or savings accounts.

With respect to reporting for IRAs, the bank must prepare the Form 5498 to report 12-31-balance, the Form 1099-R to report distributions and the Form 945 to report the withholding, if any, from an IRA distribution.

The Form 5498 "asks" the trustee or issuer to furnish its Federal Identification number, or FIN. The number that should be used is, in truth, its corporate Employee Identification number, or EIN – in this example, 36-1234567. (Form 5498 is prepared only for 5498s, and not qualified plans.)

The Form 1099-R on the other hand, asks for the "Payer's" FIN. Here too, the actual number being sought is the corporate EIN, 36-1234567.

The Form 945 used for pension withholding, however, asks the "Payer" to provide its Tax Identification Number, or TIN. Here again, the number being sought is the corporate EIN.

Thus, two different terms – FIN and TIN – are being used to request the same identification number on these three form.

With respect to reporting for qualified plans, the reporting forms to be prepared are: the Form 1099-R to report distributions, the Form 945 to report the withholding, if any, from these distributions, the Form 5500-C/R, and Schedule P, which is an attachment to the 5500 series of forms.

Although it is technically possible to have the qualified plan administrator be responsible for the preparation of the Form 1099-R and Form 945, this normally will not be the case. Normally, the custodian/trustee institution will be responsible for the preparation of the Form 1099-R and 945 and will use its standard corporate EIN (36-1234567).

Note that your business customer will prepare the Form 5500-C/R or 5500-EZ as the "sponsor" of the plan. Either form requires the insertion of an Employer Identification Number. This EIN is your business customer's EIN and not the bank's.

For any business with employees this EIN is the same number which the business uses on its income and withholding tax returns. This number will be in the format of xx-yyyyyyy.

For example, Joe Smart's Dog Shop has five employees. The IRS assigned 42-9988777 as the EIN to Joe Smart for his business. That is the number he uses for payroll tax withholding and income tax return filing.

For a business which has only a sole proprietor, the EIN for 5500-EZ filing is a specially assigned EIN because it is not permitted to use the individual's social security number (which is used for income tax return filing). (We presume that the IRS' software for administering 5500-C/R/EZ forms cannot handle social security number format xxx-yy-zzzz but must have the EIN in the form xx-yyyyyyy format.)

The Schedule P form is the tax return of the plan's trust. As discussed below, it seeks two numbers. The numbers to be entered are actually Employee Identification Numbers, or EINs. The first one to be entered is the plan sponsor's EIN (in this example case, that of Joe Smart's business), the second being the trust's separate EIN.

Many people are surprised to learn that the trust should have its own FIN/EIN. But as a separate tax entity, it should. We would certainly recommend that one be obtained. However, the instructions for the Schedule P state that if there is not a trust EIN, then enter the EIN that would be used on Form 1099-R and on Form 945. This would be the custodian/trustee bank corporate 's EIN. We believe the better administrative practice is for each QP plan to receive a trust EIN, even if all assets are invested in bank time deposits (i.e. no self-directing).

(IRA trusts that must file a Form 990-T – Exempt Organization Business Income Tax Return (essentially nonprofit organizations) – must have a separate trust EIN, so that the trust itself can file an income tax return. Most IRAs (IRA trusts) do not need an EIN.)

### *First National Bank of Newtown as an IRA Custodian/Trustee of 250 Self-Directed IRAs*

The bank as custodian/trustee will purchase various assets on behalf of these IRAs, at the direction of the accountholders. Note that First National Bank of Newtown remains the IRA custodian/trustee, but is not the issuer of the investment. The investment will be issued by a different entity.

Example #1: First National Bank of Newtown has an IRA accountholder, Sheila Bostrom, with $158,000. Because of FDIC coverage concerns she wants $70,000 withdrawn and invested in a time deposit offered by Capital Bank. She wants First National Bank to remain the IRA custodian with respect to the $70,000 plus the other $88,000.

First National Bank must instruct Capital Bank that the time deposit should be titled, "First National Bank as IRA custodian for the IRA of Sheila Bostrom."

Example #2: First National Bank of Newtown has an IRA accountholder, Susie Harris, with $134,000. Susie wishes to purchase $50,000 of various mutual funds from Charles Schwab. First National Bank should instruct Charles Schwab that the mutual funds should be titled, "First National Bank as IRA custodian for the IRA of Susie Harris."

Note that neither Capital Bank nor Charles Schwab will prepare any Form 5498, 1099-R, 945 etc. with respect to these deposits/withdrawals since they are not the IRA custodian.

First National Bank must furnish Capital Bank and Charles Schwab with a special EIN to reflect its status as an IRA custodian/trustee of self-directed IRA accounts. It must not furnish its corporate EIN of 36-1234567, as these assets are not owned by the corporation for itself, but are owned as a custodian/trustee.

Although it would be technically permissible to receive an EIN from the IRS for each individual self-directed IRA, in most situations that will not be practical or desirable. One special number should work for all self-directed IRAs. The bank will need to obtain this number for its custodian role from the IRS.

### *First National Bank of Newtown as QP Custodian/Trustee of 25 Self-Directed QP Plans*

The key distinguishing factor is that these are self-directed QP plans.

The main administrative question is: should the EIN of the custodian/trustee be used for ownership and reporting purposes, or should the EIN of the trust itself be used?

We would normally recommend using a special EIN issued to the bank for its role as custodian/trustee of self-directed accounts.

If a bank is acting as custodian/trustee for 25 self-directed QP plans, it may be easiest – for ownership purposes – for the bank to have a special EIN for its status as an IRA and QP custodian, rather than use 25 separate numbers.

This also would be easiest for the preparation of Form 1099-R/945 returns, since there will be one return and not 25. Some would argue, however, that the individual return approach is to be preferred because it allows the custodian/trustee institution to avoid the magnetic media filing thresholds, which may be beneficial in some situations.

### *How To Obtain Additional EIN/TIN/FIN Numbers*

Numbers can be obtained by phone, rather than waiting for a written application to be processed. If you or your business customer call the IRS, the service will assign a number. The requester must then follow-up by submitting a completed Form SS-4 to the appropriate IRS service center to complete the process. For a thorough discussion of this phone application procedure, refer to page 2 of your May 1992 Pension Digest. For a reprint of this article, complete with a map showing all regional service centers, please send $2.50 and a return addressed envelope to: CWF EIN Reprint, P.O. Box 426, Brainerd, MN 56401. PD

**Marital Property**—*Continued from page 1*

deferred employment benefits. The husband had approximately $800,000 in qualified plan assets that had been rolled into an IRA plan.

But this law was not retroactive to include earnings before its date of enactment, and therefore the majority of the $800,000 in IRA assets remained in the status of "unclassified," and the individual property of the husband in accordance with the state law. But this law also had a provision allowing jointly-signed spousal agreements to reclassify individual property as marital property. Doing so would grant marital property rights to assets – in this case an IRA – that would not otherwise exist for the accountholder's wife under this state's laws.

This the couple wished to do, and thus requested a ruling that such action would not have adverse tax consequences – i.e. be considered a deemed distribution per Code section 408(d)(1).

The couple's intentions included the following:

1. No assets would actually be distributed to, or be in the control of, either spouse.

2. None of the IRA account balance would be transferred from the husband's IRA account(s) into an account of his spouse.

3. No change in IRA plan trustee would be made. The assets would remain where they currently were.

Considering these facts, the IRS stated in its Letter Ruling 9419036 that "Such reclassification, (to marital property) alone, is not tantamount to an actual distribution or payment from an IRA. Furthermore, such reclassification will not cause the IRA to fail to meet the requirements under section 408(a) so as not to be for the exclusive benefit of the involved taxpayers."

Therefore, the IRS concluded that the agreement to reclassify the IRA as marital property "... will not give rise to a distribution from taxpayer A's IRA pursuant to section 408(d)(1) of the Code."

This Letter Ruling was prepared by John G. Riddle, Jr., Acting Chief of the IRS' Employee Plans, Rulings Branch. However, with usual IRS caution the Ruling stated that its text was not to "... be used or cited as precedent." PD

## Interest Earnings Reporting on Form 1099-INT: When NOT to Report

Despite having discussed earned-interest reporting on Form 1099-INT in a previous issue of *The Pension Digest*, there continue to be questions from financial institutions on the subject. What follows is a summary of key points from past discussions, plus new commentary on this important but often misunderstood subject.

### *1099-INT Interest Reporting Situation #1: Account(s) and Assets Held in Same Institution*

When an IRA, Keogh or other qualified plan has been established at a given institution, and the plan's assets are on deposit there, must that institution generate a Form 1099-INT for interest earned in that plan in a given tax year?

The answer is "no." Earnings from such plans are tax-deferred, per Internal Revenue Code section 6049(b)(4)(B). Reporting them to the IRS on Form 1099-INT would erroneously indicate taxable earnings, and the accountholder or plan participant would find themselves in the uncomfortable position of having to explain to the IRS that these are in fact **not** taxable. With the plan based there and assets held there, this institution knows – or should know – that the interest is tax-deferred, and thus it is not only safe but proper to not generate a Form 1099-INT. (If this were not a tax-deferred account, the institution would have to generate a 1099-INT, or face a penalty for failing to do so.)

### *1099-INT Reporting Situation #2: Investments Made in Other Institution(s)*

If an IRA, Keogh or other qualified plan is established at one institution, but plan investments are made in assets such as time deposits offered by other (we'll call them "secondary") institutions, should these secondary institutions generate the Form 1099-INT?

Having only the investment instruments and not "hosting" the plan itself, these secondary institutions might logically consider the safe course to be to generate the 1099-INT, since there is a penalty for failing to do so if required.

This, as we've discussed, will cause problems for a customer if the plan is in fact tax-deferred. Thus, in the interest of providing customers with the best service, the ideal approach is for such a secondary institution to request certification from the custodian or trustee institution, that the IRA or qualified plan to which these interest earnings belong is indeed qualified.

This is more time consuming, but is in the best interest of an institution's customers. It is also the approach that the IRS would prefer (see the May, 1991 *Pension Digest* for a statement on this preference from the Taxpayer Service Division of the IRS). Why? The IRS is really no more eager than an IRA accountholder, or Keogh or QP plan participant, to go through the time-consuming task of clarifying a tax-deferred vs. taxable interest question, particularly if it is likely to be resolved in the taxpayer's favor.

(Note: In cases where a plan is not "qualified," and a 1099-INT must be filed to report earned interest, the institution's proper EIN must be used. See the accompanying article on which EIN to use for IRA and Keogh 1099-R, 5498, 5500-series and income tax reporting for more details.) PD