THE Pension Digest

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Summary and Status of Current Proposed IRA Legislation

On April 5, 1995, the House of Representatives passed HR 1215, "Tax Fairness and Deficit Reduction Bill of 1995." This bill adds a new section, section 408A, to the Internal Revenue Code of 1986. The current IRA rules are found in Code section 408.

The corresponding Senate tax bill is S.12. It is titled "Savings and Investment Incentive Bill of 1995." This bill was assigned to the Finance Committee on January 3, 1995. As discussed in previous issues, more people would become eligible under this bill to make deductible contributions to an IRA because the adjusted gross income limits would be increased. This bill provides that the 10% excise tax would not apply to pre-59 1/2 distributions if made for a first home purchase, educational expenses, catastrophic health care costs, or during periods of unemployment. It also would create a back-loaded IRA as the House bill does.

The purpose of this article is to summarize the bill which has passed the House. This bill will go to the Conference Committee once the Senate passes its tax bill.

Section 408A creates a new type of IRA account called the "American Dream Savings Account" (ADS). This new type of IRA would have the following features. It would be effective for tax years beginning after December 31, 1995 (i.e. January 1, 1996). For purposes of this article, we will refer to the section 408 IRA as the regular IRA and the American Dream Savings Account as the ADS IRA.

The current section 408 IRA rules allow either a deductible or a nondeductible contribution into a regular IRA. Under HR 1215, a person could no longer make a nondeductible contribution to a regular IRA. However, a person will be eligible to make contributions to both types of IRAs - the regular IRA and the ADS IRA. Because a person may make two types of contributions, the IRS will issue rules as to how a person will indicate or designate what type of contribution he or she is making. A special data processing system will need to exist for the ADS IRA as compared to the regular IRA, because of the special taxation rules which apply when there is a "qualified distribution" from an ADS IRA.

The Contribution Rules for the ADS IRA

The aggregate contribution limit is the lesser of $2,000 or 100% of the person's compensation. However, in the case of a married couple, the aggregate compensation of the couple can be used. Thus, each spouse may contribute $2,000 as long as their combined incomes equal $4,000. The $2,000 limit will be adjusted annually for inflation beginning after 1996, but such adjustments will be rounded to the nearest $50. There would be no tax deduction for the amount contributed. Contributions to an ADS IRA may be made even after the person for whom the account is maintained has attained age 70 1/2.

Revised Spousal Contribution Rule For the Regular IRA

The only change to the regular IRA contribution rules would be to permit deductible contributions for both spouses of $2,000, as long as their combined compensation equals or exceeds $4,000. That is, the maximum deductible contributions would be the lesser of 100% of their combined compensations or $4,000.

The Rollover Rules

Distributions from ADS IRAs can be rolled over tax free to another ADS IRA.

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Caveat for Preparing the Form 1099-R for a Qualified Plan

We have recently become aware that a number of financial institutions which service Keogh plans have been preparing the Form 1099-R incorrectly by listing the recipient's identification number as the TIN which is used to file the Form 5500-C/R/EZ (e.g. 42-1234567), rather than using his or her social security number (e.g. 473-22-7878). The social security number is the correct number to use because the distribution was made to a person in his or her status as a participant.

If you have made this mistake, we would suggest that you prepare corrected forms for the 1994 reporting year and change your system for 1995 and future reporting years. With respect to the prior years, we would suggest placing a memorandum in your file so that an explanation may be furnished the IRS if the customer or you are ever questioned about this situation.

The procedure to prepare "corrected" forms when you have used a wrong identification number is: first prepare a corrected Form 1099-R by using the original incorrect identification number (e.g. 42-1234567) placing 0.00 in boxes 1 and 2; then prepare a new original Form 1099-R with the correct identification number (e.g. 473-22-7878) and insert the proper distribution amounts.

This problem normally arises because many data processing softwares allow the inputting of only one number and not both. Good systems allow the inputting of both numbers, as both are needed to properly administer Keogh plans. Actually, a good software system will allow for at least three numbers: (1) the participant's social security number; (2) the TIN to be used to file the Form 5500-C/R/EZ; and (3) the TIN which has been assigned to the trust of the plan. PD

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Current Legislation—*Continued from page 1*

Distributions from a regular IRA can be rolled over into an ADS IRA only if it happens before January 1, 1998. Special taxation rules will apply to such rollovers. This subject is discussed below.

It does not appear that rollovers could go directly into an ADS IRA from a qualified plan or a section 403(b) account. Such funds would first need to be rolled over into a regular IRA account.

The Taxation Rules Which Would Apply to Distributions From the ADS IRA

The general rule is that a "qualified distribution" from an ADS IRA will not be taxed. To be a "qualified distribution," a five-year requirement must be met and the distribution must fall into one of the following four categories:

1. It is made on or after the date the person attains age 59 1/2;

2. It is made to a beneficiary or to the estate of the person on or after such person's death;

3. It is made because the person is disabled; or

4. It is a distribution which qualifies as a "qualified special-purpose distribution."

The five-year requirement differs for regular or spousal contributions versus rollover contributions.

The rules seem to be very lenient for regular and spousal contributions. Any distribution which is made after the initial five-taxable-year period, beginning with the first taxable year for which (not in which) the person or his or her spouse (if a spousal IRA) made a contribution to an ADS IRA, will not be subject to taxation. That is, the five-year holding period runs from the taxable year in which the individual is deemed to make his or her first ADS contribution. For example, David Smith makes his first ADS contribution March 3, 1997 for tax year 1996. Any distributions which David Smith would receive in 2001 or later would not be taxed as long as one of the other four requirements was met. There does not seem to be a requirement to contribute any minimum amount, so every taxpayer should want to contribute some amount in 1996 so the five-year period begins to run. There should be a tremendous number of contributions in 1996 if this provision, as written, becomes law.

The rules are not so lenient for rollover contributions. A distribution will only qualify for nontaxation if the distribution takes place on or after five years after the date on which such rollover contribution was made. The IRS is to issue regulations on this subject. There will need to be rules to allocate a portion of a distribution to the rollover if the IRS allows an ADS IRA to accept both regular and rollover contributions.

Special Taxation Rules for Rollovers to an ADS IRA From a Regular IRA

A person who currently maintains a regular IRA may elect to roll over these funds to an ADS IRA from January 1, 1996, to December 31, 1997. However, he or she will need to pay income tax on the taxable portion of the regular IRA (i.e. total account balance less nondeductible basis). The tax bill allows the person to include 25% of the taxable amount of the distribution in his or her income over a four-year tax period commencing with the year of distribution. The 10% excise tax will not apply to amounts rolled over from a regular IRA to an ADS IRA.

Why would a person make such an election? The person pays the IRS and is done with them. The person may believe that tax rates are relatively low now and may only go up in the future. From the government's viewpoint, they collect tax dollars now and that will help reach the tax-reduction goal on a short-term basis.

Certain Excise Taxes and Other Rules Would Not Apply to ADS IRAs

Code section 4973 provides for a 15% excise tax on excess distributions. In general, annual distributions in excess of $150,000 are subject to this 15% excise tax. All distributions from IRAs, qualified plans and section 403(b) plans are aggregated. This bill would apply the $150,000 limit just to the ADS IRA. That is, the ADS IRA has its own limit of $150,000 and does not need to be aggregated with the other types of pension plans. For some people this will be a strong incentive to roll over the funds into an ADS IRA.

Code section 408(b) requires that an IRA accountholder who attains age 70 1/2 must commence distribution of a certain required minimum amount. If the accountholder is not paid his or her required minimum amount, then he or she owes a 50% excise tax (as required by Code section 4974) on the amount which should have been taken but was not. A person who maintains an ADS IRA would not be required to take any distribution at 70 1/2 and therefore would not be subject to the 50% excise tax. This will be another strong argument for rolling over the regular IRA to an ADS IRA.

Death Rules Would Apply

The after-death rules which now apply to regular IRAs would also apply to the ADS IRA.

What Special Rules Will Apply for First-Time Home Buyers, Qualified Higher-Education Expenses and Qualified Medical Expenses?

If a distribution meets the definition of a "qualified special-purpose distribution," and the five-year requirement is met, then the distribution will not be taxed or subject to the 10% excise tax.

The term "qualified special-purpose distribution" means any distribution from an ADS IRA to the person for whose benefit such account is established, if such payments are qualified first-time homebuyer distributions, or to the extent such distributions do not exceed the qualified higher-education expenses of the person for that year and the qualified medical expenses for that year.

The term "first-time homebuyer" means any person (and if married, such individual's spouse) who has had no present ownership interest in a principal residence during the three-year period ending on the date of purchase.

The term "qualified higher-education expenses" means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the person, his or her spouse, or his or her child or grandchild.

The term "qualified medical expenses" means any amount paid during the taxable year, not compensated for by insurance or otherwise, for medical care for the person, his or her spouse or any dependent. The payment of long-term care insurance premiums will be treated as medical expenses.

Taxable Distributions From Certain Retirement Plans Would Be Reduced By Premiums Paid for Long-Term Care Insurance and Would Not Be Taxed

The new rule would be that any amount which would (but for this new rule) be included in income and taxed would be reduced (but not below zero) by the aggregate premiums paid by such person during the tax year for any long-term insurance contract for coverage of the person or his or her spouse.

Only certain distributions would qualify for this special treatment and they are distributions to the person from an IRA, amounts attributable to employer contributions made pursuant to elective deferrals, or amounts deferred under section 457.

Summary

The fact that the House has passed HR 1215 does not mean that all of its provisions will become law. The Senate will now need to pass its tax bill. A compromise will need to be reached. Whether President Clinton will sign a tax bill is very unclear at this point. However, the House, the Senate and the President have all indicated they would like to see some changes in the IRA rules to encourage more savings and deposits. The House bill, as discussed above, indicates that there may be a whole new set of IRA rules in addition to the current rules. Although these rules will be more complex, they will generate new contributions and more business. We will keep you advised of the status of the legislation. Under HR 1215, the new rules would go into effect January 1, 1996. PD

Administrative Procedures for "Certain" Qualified Plan Deposits

More and more financial institutions are being asked to accept deposits from various types of qualified plans and Keogh plans (a Keogh plan is a qualified plan which covers self-employed individuals) — 401(k) plans, profit sharing plans, money purchase plans, defined benefit pension plans. Why is this happening? Many businesses with employees are establishing 401(k) plans which allow the individual participants to self-direct their plan account balances. Many plans established as one-person Keogh plans are now being written to allow the owner/employee to invest his or her plan funds in many different investment entities.

Your financial institution will have people who are currently customers with checking and savings/time deposit accounts who are also participants in a qualified plan at work. Many of these people will want a portion of their qualified plan account balance invested in a fixed interest rate instrument or a variable interest rate instrument which is entitled to insurance from the FDIC or similar insurance. Your financial institution should at least be aware that this is a deposit category for which there may be more demand than there has been in the past. If your financial institution has not already done so, you should establish the necessary procedures to seek out such deposits and to service them well.

Here is a typical situation. Mary Martinez comes to your financial institution. She is employed by ABC National Corporation as a senior computer programmer. She is an excellent customer of your institution. She currently has $80,000 of non-IRA/pension time deposits with your financial institution. She now comes to your financial institution and states that her employer maintains a 401(k) plan which allows her to direct the plan trustee how to invest her plan account balance. She tells you that she would like to have some of her 401(k) elective deferrals ($400 per month) invested in one or more time deposits as offered by your institution. She asks you if your institution will be able to accommodate her and the plan trustee. If you are willing, then she wants you to tell her what she and the plan trustee need to do to commence such deposits. She asks what "terms" will apply to her deposits.

Many institutions would probably tell Mary Martinez one of two things. First, she would be told, "We don't handle QP plans or deposits; we quit doing that years ago." Many institutions terminated their sponsorship of Keoghs (one-person qualified plans) during the period of 1986-1995. They apparently did so because they concluded that there were not sufficient business reasons (low profits, perceived higher liability exposure, or not necessary for customer retention) to seek and service such deposits. Many thought that the rules were too complex.

Secondly, the institution's personnel might tell Mary that pension deposits may only be made in the trust department.

We would suggest that if a financial institution establishes and follows the proper administrative procedures, then most financial institutions (including the non-trust/retail side) should be willing and able to accept a pension deposit.

We would also suggest that financial institutions consider the following options in establishing its procedures with respect to pension deposits. The options are:

1. The institution decides to never accept any qualified plan deposits;

2. The institution decides to accept qualified plan deposits, but it makes very clear its policy that it will render no other services.

3. In order to encourage the making of qualified plan deposits, the institution decides to sponsor one or more qualified plan prototypes, but it also decides to require the business customer to consult with his or her own attorney, accountant, or pension consultant for all of the administrative requirements.

4. In order to encourage the making of qualified plan deposits, the institution decides to sponsor one or more qualified plan prototypes and decides that it will assist the business customer with some of the administrative tasks, but the employer will retain primary responsibility. For example, the institution will prepare Form 1099-Rs as based upon information furnished by the employer, plus the institution will assist with the preparation of the Form 5500-C/R/EZ. The financial institution could either do the administrative service itself, or contract with a pension consulting firm to have such services performed.

Obviously, the administrative procedures which a financial institution adopts will vary depending upon which option it elects.

Purpose of This Article

The purpose of this article is to discuss option #2 — the institution will accept qualified plan deposits, but will render no other services. A financial institution may certainly accept deposits from the trustee of a qualified plan without rendering any plan document or administrative services. What should be the procedures for handling deposits and contributions when this option has been selected?

THE POLICY CONSIDERATIONS AND PROCEDURES WITH RESPECT TO ACCEPTING DEPOSITS

Topic # 1. Understand Who Your Depositor or Customer Is

Your customer is the trustee of the qualified plan. The only person authorized to sign on this account will be the trustee. This is true even if the deposit is made on behalf of a specific person. The financial institution should never deal with the named plan participant, but should only deal with the trustee. When the trustee withdraws the funds, he or she will be doing so in their status as a trustee. Thus, the financial institution has no responsibility to prepare a Form 1099-R and the withholding rules do not apply.

For example, Jane Doe, trustee of the ABC Corporation 401(k) profit sharing plan, purchases a time deposit in the amount of $25,000 for the benefit of John Smith, a plan participant. The owner of the time deposit is Jane Doe as trustee of the ABC Corporation Profit Sharing Plan and Trust. The tax identification number used with respect to the time deposit should be the TIN of the trust related to the plan. You may refer to the July, 1994 issue of this newsletter for an in-depth discussion of when various TINs are used. Your financial institution should never deal directly with the participant, John Smith. This is true even if the trustee would want you to make a distribution directly to John Smith. Based upon your service agreement (see discussion immediately below), you would inform Jane Doe, trustee that such an action is administrative and is not your task, and that you will not pay the funds directly to John Smith but that you will issue the check to her as trustee.

This same situation can occur with a one-person Keogh plan. Many financial institution personnel are confused in this

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QP Deposits—*Continued from page 3*

situation. For example, Tom Mills has signed a profit sharing prototype document with First Investment Corporation which allows him, as the employer/plan sponsor, to invest his QP funds in numerous financial institutions. He now comes to your financial institution, First State Bank. Your institution does not sponsor a QP prototype. He wishes to purchase an $80,000 time deposit from you because you have excellent terms on a five-year CD. Note that he buys the time deposit in his status as the plan trustee. Again, when he comes in to withdraw the funds, you will deal with him in his status as being a trustee and not a participant. If you issue the check to him as trustee, then you will have no responsibility to prepare any Form 1099-R or to comply with the withholding rules.

Topic #2 - Formalize and Establish Your Relationship With the Depositor/Trustee

We recommend that your financial institution and your customer (the trustee) sign a contract or service agreement wherein the depositor as the trustee formally acknowledges that he or she is making this deposit in their capacity as a trustee and not as a participant, and that the financial institution has no plan document or administrative duties. This will not generally be a problem when the trustee is acting on behalf of a plan with multiple participants. If a problem arises, it normally arises with respect to the one-person plans. Many times the doctors, dentists, etc. who establish these plans don't understand that there is a very important and critical difference in their respective roles of trustee or participant. The purpose of the service agreement is to emphasize that your financial institution is dealing with them because they are the trustee. Thus, when the person withdraws his or her deposit, you make the payee on the check, "Tom Mills as trustee of the Tom Mills profit sharing plan. "

Topic #3 - Decide What Type of Time Deposit, Savings Accounts and Checking Accounts You Are Going to Offer Your Pension Depositors

What type of time deposit will you offer Mary Martinez and the plan's trustee since the plan will be depositing $400 every month on her behalf? Do you want to sell the trustee 12 different CDs? Will you only offer a variable interest rate time deposit? Or, would your financial institution be willing to give a fixed rate?

Financial institutions may need to be more creative than they have been with this special type of deposit. As long as the plan trustee on behalf of Mary Martinez contractually promises that the subsequent monthly contributions over the term of the deposit account will be made, and that there would be defined penalties if they were not made, then it seems reasonable that a fixed rate could be offered.

Topic #4 - Furnish the Required Pass-Through Insurance Notices As Required by FDIC Rules

The March 1995 newsletter discussed these new rules in detail. A financial institution which is subject to FDIC regulation is required in various situations to furnish one of the various pass-through notices. A financial institution will need to furnish a notice in the following three situations: (1) when an account is first opened; (2) when a depositor requests one; and (3) when the capital status of the financial institution deteriorates so that current deposits would not be entitled to pass-through coverage.

Topic #5 - Data Processing and Governmental Reporting Considerations

This is where many financial institutions experience problems because most data processing systems are written to handle only two types of deposits: (1) a non-IRA deposit which requires, in most cases, the generation of a Form 1099-INT or (2) an IRA deposit which requires the generation of Form 5498.

The problem is that a qualified plan deposit is a unique third type of deposit. The income or interest earned by a qualified plan deposit is not subject to current income taxation under the Internal Revenue Code. In that sense, a qualified plan is very similar to an IRA. The difference is that a financial institution must report IRA contributions to the IRS on the Form 5498, but there is no similar form used to report the qualified plan contributions made by the sponsor of a qualified plan. Thus, the financial institution must be able to "shutoff" or not generate a Form 5498 for any QP/Keogh deposits.

On the other hand, a financial institution should not generate a Form 1099-INT to report any interest earned since the pension trust does not currently pay taxes on its income. If the trustee can substantiate for your financial institution that he or she is acting on behalf of a qualified plan by furnishing you with a copy of the favorable IRS opinion or determination letter, then you should not generate a Form 1099-INT. For a more detailed discussion of this topic see the January, 1991 copy of this newsletter.

The employer who sponsors a plan covering many participants will report the aggregate total of its contributions on the IRS Form 5500-C/R or Form 5500. This employer in most situations will claim as a tax deduction the amount of its contribution on its tax form.

The sponsor of a one-person plan will claim the amount of his or her contribution on Form 1040 and will also report it on Form 5500-EZ, if required to file such a form because the $100,000 threshold amount is exceeded.

Topic #6 - Be aware that the Truth-In-Savings Rules Do Not Apply to QP Deposits

The Truth-In-Savings rules apply only to consumers, and deposits made by businesses (even one-person businesses) are not covered by TISA.

POLICY CONSIDERATIONS AND PROCEDURES WHEN THE DEPOSIT IS WITHDRAWN

This subject has already been briefly discussed. Again, your institution must only deal with the plan trustee. If your financial institution is dealing with a one-person plan, you must make sure you deal with this one person in his or her capacity as a trustee and not as a participant.

A standard qualified plan distribution form must not be used, as this payment of funds is not a distribution. The trustee has simply decided that he or she wishes to change how the funds are invested. A special withdrawal form should be used — a request for a withdrawal by a plan trustee. Your financial institution must issue the check to the trustee and not to any participant. By issuing the check to the trustee this means that there has been no distribution of assets (at least not yet) from the plan, and therefore, the withholding rules do not apply and there is no need to prepare a Form 1099-R. If there is to be a distribution to a participant, then the trustee will have the duty to comply with all of the distribution rules — furnish the section 402(f) notice, furnish the withholding notice, and comply with the withholding rules and prepare the Form 1099-R to report the amounts distributed and withheld, if any.

Summary

With proper procedures, a financial institution should feel very comfortable accepting qualified plan deposits even though it does not sponsor any qualified plan prototypes or perform any administrative services. PD

THE Pension Digest EXTRA

A supplement to your monthly pension newsletter

FDIC Additional Thoughts on the FDIC Pass-Through Insurance Disclosure Rules

▲ FDIC insured banks and savings and loans must be aware that the pass-through insurance rules apply to deposits made with respect to an employee benefit plan. That is, the pass-through notice rules apply to more than just pension plans.

Section 3(3) of ERISA defines "employee benefit plan" to be an employee welfare benefit plan or an employee pension benefit plan, or a plan which is both. ERISA section 3(1) defines the term "employee welfare benefit plan" as:

> (1) the terms "employee welfare benefit plan" and "welfare plan" mean any plan, fund; or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, (A) medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disabilty, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services, or (B) any benefit described in section 302(c) of the Labor Management Relations Act, 1947 [29 USCS § 186(c)] (other than pensions on retirement or death, and insurance to provide such pensions.)

Thus, you will need to furnish the pass-through notice when an account is opened a pension plan and by other employee benefit plans (e.g. self-insured health plans, vacation plans, certain day care center plans, etc.)

▲ You should also be aware that the FDIC insurance rule requiring a notice to be furnished in certain "account" situations is not limited to savings or time deposit accounts. It also covers "checking" accounts if the accounts are opened by an employee benefit plan. Thus, a notice must be furnished when the checking account is opened, upon request, or when the capital status of the institution deteriorates. You may find that a trustee of an employee benefit plan may very well request the pass-through notice each and every time it makes a deposit to a checking account, because whether a specific deposit is insured depends upon the capital status of the bank at that time.

▲ Some financial institutions have called to ask what notice they need to furnish on or before July 14, 1995. These institutions may think they need to furnish a pass-through notice when they don't need to.

There are four situations when a financial institution is required to furnish a notice:

1. Upon request;

2. When an account is opened;

3. When the capital status of the institution deteriorates so that pass-through insurance coverage would not apply to current deposits; and

4. To those deposits made between December 19, 1992, through July 1, 1995, which were NOT entitled to pass-through coverage at the time the deposit was made.

Since almost all financial institutions maintained a sufficiently good capital status from December 19, 1992, through July 1, 1995, these financial institutions are not required to give the #4 notice. They will only need to be concerned about notices #1, #2 and #3 on or after July 1, 1995.

▲ In order to demonstrate to the FDIC that your financial institution has acted to comply with this regulation, your institution should prepare a memorandum which summarizes the capital status categories that were reported on the following call reports for the periods ending: 12/31/92; 3/31/93; 6/30/93; 9/30/93; 12/31/93; 3/31/94; 6/30/94; 9/30/94; 12/31/94; 3/31/95; and 6/30/95.

We recommend this approach because you must determine to the best of your ability whether a deposit of an employee benefit plan was or was not entitled to pass-through coverage when the deposit was made for those deposits you received or will receive from December 19, 1992, to July 1, 1995. You only need to give the special notice if the deposit was NOT entitled to pass-through coverage. PD

May 31, 1995 Deadline for the 1994 Form 5498

An IRA custodian must furnish the IRS the Form 5498 information on or before May 31, 1995. Your institution must furnish this information to the IRS on magnetic media if you file 250 or more such forms. If you have less than 250 forms to file, then you are permitted to file on paper forms.

An IRA custodian must prepare a Form 5498 if any of the following events have occurred in 1994:

1. A regular or spousal contribution for tax year 1994 was made on behalf of the IRA accountholder between January 1, 1994, and April 17, 1995;

2. A rollover or a direct rollover was made by the IRA accountholder between January 1, 1994, and December 31, 1994;

3. The IRA had a positive fair market value as of December 31, 1994. This applies to both regular and inherited IRAs.

4. The IRA accountholder died sometime in 1994.

The IRA custodian is also required to furnish the 1994 Form 5498 to each person for whom the Form 5498 was sent to the IRS. This deadline is also May 31, 1995. However, there are two major exceptions. First, if you furnished a customer statement in January which reflected the December 31, 1994, fair market value, and this person did not make any regular, spousal or rollover contributions, then there is no need to furnish a Form 5498 since it will only repeat information which you already have furnished. Secondly, if you furnished a statement in January which showed contributions, rollovers and the fair market value as of December 31, 1994, and you indicated what information would be furnished to the IRS and that information has not changed, then there is no need to furnish the 1994 Form 5498 or a substitute since you have already furnished this information. For a more detailed discussion of this topic, see the May, 1993 issue of this newsletter.

Note that transfer contributions and SEP contributions are not reported on the Form 5498. If the IRA accountholder died during 1994, the IRA custodian/trustee is given, with respect to the deceased accountholder, the option of reporting as the fair market value either the actual fair market value as of the date of death, or reporting a zero. If the custodian/trustee reports a zero, it then must include the notice stating that the personal representative may request the fair market value as of the date of death. This special notice is already included on IRS Form 5498, and it must also be included on any qualifying substitute form.