December, 2001
Published Since 1984

The Pension Digest

ALSO IN THIS ISSUE –

Collin W. Fritz and Associates, Inc.,
"The Pension Specialists"

 Published by Collin W. Fritz and Associates, Ltd. Subscription Rate: $65 per year.

Be Sure to Use the Right IRA Plan Documents

Serious problems may well arise if the personnel of an IRA custodian do not understand which forms are the proper forms to be used to establish an IRA.

If you have a question, you should ask your forms vendor for assistance.

Collin W. Fritz and Associates, Ltd. has three basic IRA forms.

A Custodial IRA form. This form is to be used by a financial institution which does not want to serve as a formal trustee or does not have the legal authority to act as a trustee. Many banks, savings and loans or credit unions have the authority to only act as an IRA custodian. This form restricts the investments which may be purchased by (and for) the IRA accountholder to savings accounts and time deposits which are offered by that financial institution. This form does not authorize the investment in a CD of another bank or the purchase of mutual funds, or the purchase of a EE bond or an I-bond. CWF has assigned Form #40 and Form #50 to this custodial only form.

A Custodial Self-Directed IRA form. This form is also to be used by a financial institution which does not want to serve as a formal trustee or does not have the legal authority to act as a trustee. Most banks, savings and loans or credit unions have the authority to act as an IRA custodian of self-directed IRA accounts. Two requirements must be met by the financial institution. First, it must keep appropriate accounting records. Secondly, it must render no investment advice. This is the form to be used if the IRA accountholder wishes to invest in the CD of another bank or to purchase mutual funds or to purchase a EE bond or an I-bond. CWF has assigned Form #42 or Form #52 to this custodial self-directed form.

A Trust IRA form. The financial institution must have the authority to serve as a trustee of IRAs and non-IRAs.

In many trust situations, the individual who establishes the trust is hiring the financial institution to gain the benefit of its investment skills. In other situations, the individual wishes to make the investment decisions himself or herself. CWF has assigned Form #41 and Form #51 to this full trust form. The CWF form is written so that the trustee will make the investment decisions unless the IRA grantor furnishes a written instruction. This right to furnish a written instruction means that the IRA grantor may self direct his or her IRA funds even within a trust form. ◆

401(k) Plans for One-Person Businesses

A relatively hot topic evolving from the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) is that a one-person business will now be able to benefit by establishing a 401(k) plan in 2002. Under pre-EGTRRA law there was no practical purpose for a self-employed person to establish and participate in a 401(k) plan, as a standard profit sharing plan allowed for the largest permissible contribution. The 401(k) did not provide any additional benefits.

EGTRRA has changed all of that. It is possible that Congress and the President will play Scrooge and decide the law changes discussed below are too good a deal and repeal such tax legislation. However, as written, EGTRRA does allow a self-employed individual to sponsor a 401(k) plan in 2002.

The limit on deductible contributions to a defined contribution plan, including a 401(k) plan, has been increased under EGTRRA from 15% of the participants' compensation to 25% of the participants' compensation. The special rule still exists that the 25% limit may be exceeded to

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January Fair Market Statements Are Due January 31, 2002

With respect to 2001, an IRA custodian or trustee has the duty to furnish the IRA accountholder or inheriting beneficiary with a Fair Market Value statement and, in some cases, a Form 5498. The duties are discussed below. there are various options available to an IRA custodian for complying with the governing rules. The purpose of this article is to discuss the rules and the options.

Why furnish a FMV statement or notice? The IRS requires it. There is a $50 penalty for each failure to furnish the FMV statement.

You will need to furnish your customer and certain beneficiaries with his or her account balance (fair market value as of December 31) no later than January 31 in the subsequent year. For instance, December 31, 2001 fair market value must be provided by January 31, 2002.

To complete the Form 8606 (used to report a non-deductible contribution), the customer will need to know the FMV of each IRA as of December 31. Since the customer will need to file his or her personal tax return on or before April 15 of the subsequent year, the IRS has set January 31 as the deadline for furnishing this Fair Market Value Statement/balance to each customer.

You communicate this FMV by furnishing all your IRA living customers, beneficiaries, and/or estate executor with an IRA statement. This statement may be in "any written format" as long as the FMV as of December 31 is disclosed.

Note, you are not required to furnish a FMV statement to anyone who did not make a reportable contribution and who has a zero balance as of December 31. Exception—you must prepare one for a deceased accountholder if you use the alternative (fair market value as of 12/31) rather than date-of-death method.

Also, note that January 31 is the deadline for reporting the FMV, and not the deadline for reporting contributions. Contributions are not required to be reported on the customer statement, but are required to be reported on the Form 5498 as discussed later.

Option #1. Furnish a complying FMV statement to all required recipients in January of 2002, and then mail the 2001 Form 5498 to all applicable IRA accountholders in May of 2002. There is much duplication under this option. Duplicate mailings are expensive.

Option #2. Furnish a complying FMV statement to all required recipients in January of 2002, and then mail the 2001 Form 5498 or a substitute Form 5498 in May of 2002 to only those IRA accountholders who had made a reportable contribution. That is, the 2001 Form 5498 would not be mailed to those IRA accountholders who had not made any reportable contribution, because they had already been informed of their 12-31 balance on the statement. There is still some duplication because you are reporting twice those contributions made during the calendar year, because most FMV statements furnish the calendar-year transactions even though the rules do not require it.

Option #3. Furnish the fair market value information to all required recipients in January of 2002, but furnish all other reportable contribution information known as of December 31 by furnishing a 2001 Substitute Form 5498. Accountholders would be notified by a SPECIAL NOTE that a "corrected" statement will be sent in May of 2002 if they would make a carryback contribution (one for 2001) during the period January 1, 2002 to April 15, 2002.

We called the IRS centralized call site (1-304-263-8700) and were told that the second substitute Form 5498 to be furnished to the recipient must be marked "corrected" because it is different from the first. However, because the Form 5498 information is not filed with the IRS until the end of May, all of the forms going to the IRS will be "originals," whether being sent on magnetic media or by paper.

What qualifies as a 2001 Substitute Form 5498? Be aware that a general FMV statement normally will not qualify as a substitute Form 5498 because it will not contain sufficient information. The 2001 Form 1099 instructions contain the following discussion.

"If you are required to file Form 1099, 1098, 5498, or W-2G, you also must furnish statements to recipients containing the information furnished to the IRS and, in some cases, additional information. Be sure that the statements you provide to recipients are clear and legible.

If you are not using the official IRS form to furnish statements to recipients, see Pub. 1179 for specific rules about providing "substitute" statements to recipients. Generally, a substitute is any statement other than Copy B (and C in some cases) of the official form. You may develop them yourself or buy them from a private printer. However, the substitutes must comply with the format and content requirements specified in Pub. 1179. ***Telephone number.*** *You are required to include the telephone number of a person to contact on the following statements to recipients: W-2G, 1098, 1098-E, 1098-T, 1099-A, 1099-B, 1099-DIV, 1099-G (excluding state and local income tax refunds), 1099-INT, 1099-LTC, 1099-MISC (excluding fishing boat proceeds), 1099-OID, 1099-PATR, and 1099-S. You may include the telephone number in any conspicuous place on the statements. This number must provide direct access to an individual who can answer questions about the statement. Although not required, if you report on other Forms 1099 and 5498, you are encouraged to furnish telephone numbers.*

Different rules apply to furnishing statements to recipients depending on the type of payment (or contribution) you are reporting and the form you are filing."

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The following requirements must be met to be a complying substitute Form 5498:

- The substitute form must clearly be identified by the IRS form number and IRS title for which it is substituting.
- All applicable money amounts and information, including box numbers, must be titled in substantially the same manner as the official IRS form.
- The caption "Federal Income Tax Withheld" must be in bold print (where applicable).
- The correct number of copies must be provided.
- Appropriate instructions, similar to the IRS instructions, must be provided.

The insert shows a complying January FMV statement which does not qualify as a substitute Form 5498 and it also shows a complying substitute Form 5498.◆

Review – Completing the 2001 Form 5498

2828 ☐ VOID ☐ CORRECTED

TRUSTEE'S or ISSUER'S name, street address, city, state, and ZIP code		1 IRA contributions (other than amounts in boxes 2, 3, 4, and 8–11) $ 2 Rollover contributions $	OMB No. 1545-0747 2001 Form 5498	IRA Contribution Information
TRUSTEE'S or ISSUER'S Federal identification no.	PARTICIPANT'S social security number	3 Roth conversion amount $	4 Recharacterized contributions $	Copy A For Internal Revenue Service Center File with Form 1096.
PARTICIPANT'S name		5 Fair market value of account $	6 Life insurance cost included in box 1 $	For Privacy Act and Paperwork Reduction Act Notice, see the 2001 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Street address (including apt. no.)		7 IRA ☐ SEP ☐ SIMPLE ☐	Roth IRA ☐ Ed IRA ☐	
City, state, and ZIP code		8 SEP contributions $	9 SIMPLE contributions $	
Account number (optional)		10 Roth IRA contributions $	11 Ed IRA contributions $	

Form 5498 Cat. No. 50010C Department of the Treasury - Internal Revenue Service

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

Set forth are our "plain english" comments for what is to be inserted into each of the 11 boxes.

Box 1. The amount in Box 1 should never be more than \$2,000. If there is more than \$2,000, that means the customer has either made an excess contribution, or you have erred by reporting a SEP, Keogh, or rollover contribution in the wrong box. (If an excess contribution was made, it must be reported on the 5498, even if already corrected.)

The fact that the amount in Box 1 is less than or equal to \$2,000 does not necessarily mean the information is correct. The amount in Box 1 must be the exact amount of the actual contribution made by or on behalf of that person.

An IRA custodian/trustee should have a procedure to verify that the amount in Box 1 is the actual contribution amount. This can be done by comparing the amount against one or more contribution forms. Obviously, you may not find it cost effective to check every single account, but you should test a meaningful number so that you can conclude that your error rate is minimal.

Note that the sum of Box 1 and Box 10 should also be less than \$2,000. Otherwise, most likely there has been an excess contribution.

Box 2. The amount in Box 2 is any rollover contribution made by an accountholder during the period January 1 to December 31 with respect to a traditional IRA. A reportable rollover or direct rollover occurs when the customer was paid money from a pension plan or IRA, and then redeposits this amount into an IRA in compliance with all rollover rules. An IRA custodian/trustee should check such an amount against the rollover certification form/contribution form, which it should have in its file. Transfers are not to be reported in Box 2.

Box 3. This box applies only to a Roth IRA. Conversion contributions are reported in this box.

Box 4. Shows amounts recharacterized from transferring any part of the contribution (plus earnings) from one type of IRA to another.

Box 5. The amount in box 5 of the Form 5498 (the fair market value as of 12-31) must match the amount you disclosed to the accountholder on the January statement. An IRA custodian/trustee needs a procedure to check these amounts. If they do not match, the IRA custodian/trustee must determine which is wrong, and correct that one.

In addition to boxes 1, 2 and 5, the IRA custodian/trustee must also correctly complete its name, address, and tax

Completing 5498, Continued from page 3

identification number, along with the same information for the accountholder or beneficiary.

Box 6. This box does not apply to noninsurance IRAs.

Box 7. Indicate the type of IRA.

Box 8. Reports SEP contributions made during the period of 1-1-01 to 12-31-01 regardless of the tax years for which contributed. Maximum contribution amount is $25,500.

Box 9. Reports SIMPLE contributions. The sum of the employee's elective deferrals plus the employer's match are reported in this box. Again, only report contributions made during the period of 1-1-01 to 12-31-01 regardless of the tax year for which contributed. Maximum contribution amount is $11,100 for 2001.

Box 10. Reports regular Roth IRA contributions. The amount in Box 10 should never be more than $2,000. If there is more than $2,000, then there is an excess contribution. And the sum of Box 10 and Box 1 should also be less than $2,000. These contributions are for the 2001 tax year or 1-1-01 to 4-16-02.

Box 11. Reports Education IRA contributions. The amount in Box 11 should never be more than $500 for 2001. If there is more than $500, then there is an excess contribution for 2001.

Here are some excerpts from the IRS' instructions and/or additional CWF's observations for filing the 2001 Form 5498.

1. The filing deadline with the IRS is on or before May 31, 2002.

2. The deadline to furnish to the participant is May 31, 2002, for traditional and Roth IRAs and January 31, 2002, for Coverdell Education Savings Accounts (formerly Education IRAs).

3. The boxes on the 2001 Form are not identical to those on the previous year's forms because Box 4 is for 2001. Box 4 will be used to report "recharacterized contributions."

4. The IRS makes clear in the instructions that a separate Form 5498 must be filed for each separate IRA plan agreement. If there are three CDs held under one plan agreement, then only one Form 5498 needs to be prepared. If a person has a regular IRA and a conduit IRA, then the IRA custodian will need to prepare two separate Form 5498s. You will want to point this change out to your software vendor or to your internal programmers, since many IRA software programs aggregate all information related to the same Social Security Number onto one Form 5498. This is no longer permissible.

5. With respect to inherited IRAs, the IRS makes the statement that "an IRA holder must be able to identify the source of each IRA he or she holds for purposes of figuring the taxation of a distribution from an IRA."

   Observation: This is a very important statement. The IRS is saying that an IRA custodian must prepare a separate Form 5498 for each IRA plan agreement a persons owns, either in his own right or as a beneficiary. For example, if a person has a regular IRA, has inherited an IRA from her father, another from her mother, and one from her grandmother, then the IRA custodian will need to prepare four separate Form 5498s. Your institution will have compliance problems if your computer system would locate all accounts associated with the same Social Security Number and then aggregate the information onto one form.

6. The IRA custodian must report the receipt of a direct rollover in Box 2 – "Rollover IRA Contributions." Note that the IRS does not distinguish between rollovers and direct rollovers on the Form 5498.

7. The IRA custodian need not furnish the IRA owner (or a beneficiary of an inherited IRA) a Form 5498 if it furnishes a statement of the fair market value to this person by January 31, 2002, and if no contributions were made to the IRA for 2001. The IRS makes it very clear that this January statement must contain a legend designating which information is being furnished to the IRS.

   In addition, if this statement is with respect to an inherited IRA, and the IRA custodian has chosen to use the alternative method (i.e. not report in Box 5 the fair market value as of the date of death), there must be a legend or notice informing the executor or administrator of the decedent's estate of his or her right to request a date-of-death valuation. If you use either the language for Box 5 on the back of the official copy B, or you use the official copy B, you will have met this notice requirement.

8. Until a spouse beneficiary elects to treat a deceased spouse's IRA as his or her own, the IRA custodian is to treat the IRA in the same way it treats an inherited IRA of a nonspouse beneficiary (i.e. Brian Young as beneficiary of Joan Smith).

9. All regular contributions must be reported in Box 1. If the IRA owner made an excess contribution and withdrew it, it is still reported. You are never to "net" an excess contribution.

10. If an IRA owner intentionally or unintentionally elects to leave an excess contribution within an IRA and use it as a contribution for a subsequent year, the IRA custodian is not to report this "carryover" on the Form 5498 for the subsequent year. The IRS has adopted the position that the contribution has already been reported and should not be

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Completing 5498,
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reported a second time. This explanation is questionable, but at least the IRS has taken a position on a policy question which had been unaddressed for a long time.

11. With respect to reporting rollovers of property in Box 2, the instructions very clearly state that the IRA custodian is to enter the fair market value of the property as of the date it is received, even though this value may be different from the value of the property on the date it was distributed (i.e. as it was reported on the Form 1099-R).

    Observation: The duty of your financial institution is to report "gross" transactions to the IRS and not necessarily prepare reports in such a way that the IRS will not need to ask the taxpayer for an explanation. ◆

Statement and Mailing Requirements for IRAs

Any business is always looking for ways to reduce its expenses. Financial institutions which serve as IRA custodians or issue IRA annuities are no different than any other business when it comes to trying to reduce expenses. Financial institutions have reporting requirements for non-IRA accounts as well as for IRA accounts. The rules are not the same.

We read these instructions as follows. A reporting entity is subject to different rules for furnishing statements. It is the type of payment which determines the rules for furnishing the statement.

The rules are very stringent for the following types of reporting forms: 1099-DIV, 1099-INT, 1099-OID and 1099-PATR. These stringent rules cover what can be enclosed and whether there must be the legend, "Important Tax Return Document Attached or Enclosed" printed on the statement and/or the envelope.

In contrast, the furnishing statement rules are NOT very stringent for the IRA forms (Form 1099-R, the January fair market value statement and the Form 5498). The IRA forms come under the category of "Other Payments" for purposes of determining the statement requirements. Note that the very strict statement mailing requirements which apply to the 1099-DIV and 1099-INT do NOT apply to the 1099-R, the January fair market value statement and the Form 5498. The IRA custodian MAY COMBINE these IRA statements with OTHER REPORTS OR FINANCIAL OR COMMERCIAL NOTICES or expand them to include other information to the recipient.

Because the statement mailing requirements do NOT apply to the IRA forms, we also conclude that the envelope rules do NOT apply since they are one of the statement mailing requirements. However, being conservative, we would suggest that an IRA custodian place some notice on an envelope containing IRA tax reporting forms stating that various IRA tax reporting forms are enclosed. But this notice is not required.

Suppose a financial institution (which is also an IRA custodian) wants to create a customer newsletter discussing general banking subjects and desires to mail it to all of its customers in January of 2002. They would like to send to their IRA accountholders the applicable IRA forms. *Is it permissible to do this? Or, must they send the IRA forms by themselves in a separate mailing?*

IRA forms can be combined with other enclosures. Obviously, non-IRA customers would not be sent any IRA forms. Such a mailing would NOT include any Form 1099-DIV or Form 1099-INT or any such substitute form. A financial institution will comply with the rules for furnishing the Form 1099-R, the January fair market value statement and the Form 5498 if it would add these IRA forms to the other contents of a mailing. ◆

IRS Extends GUST Amendment Period

The IRS has recently extended the GUST remedial amendment period under Code section 401(b) for nongovernmental qualified retirement plans. This period has now been extended to 2/28/02 for all qualified plans, if the period would otherwise have ended before then. The extended deadline applies to all GUST plan amendments. This deadline will only apply to individually designed plans, plans whose sponsor did not timely file updated prototypes with the IRS by 12/31/00, and new filers who did not have a prototype prior to 1/1/01. If you are already using a prototype, and the sponsor filed in a timely manner, this deadline does not apply to you (Collin Fritz and Associates filed their updated prototypes on time).

An additional extension to June 30, 2002, is available to those directly affected by the terrorist attacks of September 11, 2001. A further extension may be made if the plan can show extensive hardship due to the attacks.

CWF Prototype update: On 12/5/01, we submitted to the IRS the third, and, hopefully, final revision of our prototypes,. We are expecting to receive our opinion letter very soon. ◆

IRS Issues 2001 Form 5329

The IRS has recently released the 2001 version of Form 5329. This form is many times required to be filed by certain IRA accountholders and inheriting IRA beneficiaries. Copies should be obtained from an accountant or the IRS.

This article is limited to discussing the subject of who must file the 2001 Form 5329 because there has been an early distribution. Any distribution which occurs prior to age 59 1/2 is generally considered an early distribution for these purposes. There are some exceptions — a distribution which is rolled over is not an early distribution for these purposes.

The IRS instructions are not as clear as they should be.

The instructions for Form 5329 state that the purpose of the Form 5329 is to report any additional taxes which are due on IRAs, other qualified retirement plans, Coverdell Education Savings Accounts. Archer MSAs or modified endowment contracts.

There is another purpose of Form 5329 which is not mentioned, but which should be. In some situations, the Form 5329 needs to be filed by a tax filer/IRA accountholder or tax filer/IRA beneficiary even though he or she does not owe any additional taxes so that he or she can explain why the 10% additional tax is not owed. This is explained below.

For example, an IRA accountholder, who at age 45 in 2001 withdrew funds from her traditional IRA to pay some of her son's college education expenses will need to file the 2001 Form 5329 to indicate that she does not owe the 10% additional tax because she meets the education exception. You, as the IRA custodian, will furnish her with a 2001 Form 1099-R showing a reason Code 1 in box 7. The "1" tells the IRS that the 10% additional tax is owing. It is then up to the IRA accountholder/taxpayer to complete and file the Form 5329 so that he or she indicates that he or she qualifies for an exemption from the 10% additional tax which is provided by Code section 72(t).

The instructions list six separate situations when a person must file a Form 5329. Three of these situations deal with an early distribution situation. They are:

1. An early distribution (pre-59 1/2) was received from a Roth IRA which was more than the basis in the account, and was distributed during the four-year period which applied to certain 1998 conversions, or relates to the withdrawal of a conversion contribution before the five-year requirement has been met.

2. An early distribution (pre-59 1/2) was received from a qualified retirement plan (other than a Roth IRA) and a distribution code 1 is NOT shown in box 7 of the Form 1099-R. For purposes of this form, the term qualified retirement plan means a qualified plan as defined in Code section 401(a), a 403(b) plan, a qualified annuity plan and an IRA.

   This explanation does say that the Form 5329 must be completed any time there is an early distribution and there is not a code "1" in box 7 of the Form 1099-R. This is true even if there is a code "2," "3," or "4" in box 7. The problem is that this is not what is said in the instructions which appear on the Copy C for the recipient of the Form 1099-R. These instructions state that the Form 5329 is not required to be filed if a Code 2, 3, 4, E, G, or H appears in box 7.

   We suggest going with the Form 1099-R instructions, as they make more sense. The reason the IRS has an IRA custodian report a distribution with a Code 2, 3, or 4, is to inform the IRS and the participant that the 10% additional tax is not owing.

   Note that if the Form 1099-R correctly shows a "1" in box 7, the IRA accountholder is not required to complete Form 5329. He or she may insert the additional tax amount on line 55, Form 1040.

3. The IRA accountholder meets an exception to the tax on early distributions, but the correct distribution code for the exception is not shown in box 7 of Form 1099-R.

   For example, a person is disabled, but the Form 1099-R contains a Code "2" rather than a Code "3."

   To the best of our knowledge, the IRS has never created a reason code for the following exceptions: certain medical expenses, certain health insurance premiums, and first-time home buyer expenses. And what the IRS says in the instructions for the Form 1099-R is very limited. In the discussion of Code 1 — Early distribution, no known exception, the statement is made that "Code 1 is to be used only if the recipient has not reached age 59 1/2 and if none of the exceptions under section 72(q), (t) or (v) are known to apply. For example if a distribution is made for medical or qualified higher education expenses you (as the IRA custodian) will not know if any medical or higher education expenses exception under section 72(t) applies." Nothing more is said. There is no mention of the Form 5329.

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Form 5329,
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Part I of Form 5329 is shown here:

Part I **Tax on Early Distributions**

Complete this part if a taxable distribution was made from your qualified retirement plan, including an IRA, or modified endowment contract before you reached age 59½. If you received a Form 1099-R that incorrectly indicates an early distribution or you received a Roth IRA distribution, you also may have to complete this part. See page 1 of the instructions.

Note: *You must include the taxable amount of the distribution on Form 1040, line 15b or 16b.*

1	Early distributions included in gross income. For Roth IRA distributions, see page 2 of the instructions	**1**		
2	Early distributions not subject to additional tax. Enter the appropriate exception number from page 2 of the instructions: ______	**2**		
3	Amount subject to additional tax. Subtract line 2 from line 1	**3**		
4	**Tax due.** Enter 10% (.10) of line 3. Also include this amount on Form 1040, line 55	**4**		
	Caution: *If any part of the amount on line 3 was a distribution from a SIMPLE IRA, you may have to include 25% of that amount on line 4 instead of 10% (see page 2).*			

The IRS instructions for completing Part I — Tax on Early Distributions of Form 5329 are summarized as follows.

On Line 1 the tax filer (i.e. IRA accountholder or inheriting IRA beneficiary) enters the amount of early distributions from an IRA which must be included in his or her income, including the earnings related to an excess contribution.

On Line 2 the tax filer (i.e. the IRA accountholder or inheriting beneficiary) enters the amount which can be EXCLUDED because he or she meets an exception. In the space provided, the applicable exception number (01-11) is to be inserted. The numbers for the exceptions are:

No. Exception

01 Qualified employee plan distributions due to separation from service in or after the year you reach age 55.

02 Distributions made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from a qualified employee plan, payments must begin after separation from service).

03 Distributions due to total and permanent disability.

04 Distributions due to death (does not apply to modified endowment contracts).

05 Distributions to the extent you have deductible medical expenses that can be claimed on line 4 of Schedule A (Form 1040) (does not apply to annuity contracts or modified endowment contracts).

06 Qualified employee plan distributions made to an alternate payee under a qualified domestic relations order.

07 IRA distributions made to unemployed individuals for health insurance premiums.

08 IRA distributions made for higher education expenses.

09 IRA distributions made for purchase of a first home, up to $10,000.

10 Distributions due to an IRS levy of the qualified retirement plan.

11 Other (see instructions below).

Other. The following exceptions also apply.

QUESTIONS AND ANSWERS

Situation/Question. An IRA accountholder died on 6-6-00. She died at age 76 (i.e. after her required beginning date). Her beneficiary was her daughter, Eileen, whose date of birth was 2-17-52. How do you calculate the RMD factors which will be used to calculate the RMD amounts for Eileen for 2001 and subsequent years?

Answer. You determine the original factor for Eileen's inherited IRA for the year after the year of the accountholder's death. You do NOT determine the factor for the year of death since, Eileen is not a spouse beneficiary. Eileen is age 49 in 2001. The factor from Table V (the Single life-expectancy table) for a person age 49 is 34.0. To determine the factor for subsequent years, you simply subtract 1.0 each year from the initial factor of 34.0. The factors for future years: 2002-33.0; 2003-32.0; 2004-31.0; etc.

Question. Does an IRA accountholder or grantor always have a right to revoke his or her IRA?

Answer. No. Regulation 1.408-6 (i.e. the IRA regulation) provides two methods for an IRA custodian/grantor furnishing an IRA disclosure statement to an IRA accountholder/grantor. One of the methods requires that there be a right to revoke and the other does not.

The right to revoke, however, only applies with respect to when an individual establishes an IRA (i.e. signs an IRA plan agreement).

The first approach of the regulation is – the IRA custodian/trustee furnishes a copy of the disclosure statement and a "specimen" copy of the IRA plan agreement to the individual at least seven days in advance of the earlier of: the date of establishment of the IRA plan agreement or purchase of any investments. Under this approach there need not be a right to revoke since the individual has had seven days to review before he or she signs anything or any funds are invested. The seven days starts to run from the earlier of the two events.

The second approach of the regulation is – it is permissible to furnish a copy of the disclosure statement and IRA plan agreement no later than the earlier of the date of establishment of the IRA plan agreement (or purchase) as long as the individual is given seven days to revoke. Such revocation entitles the individual to the return of the entire consideration paid by him or her without any type of adjustment. ◆

401(k) Plans,
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the extent that a larger contribution is required to satisfy the anti-discrimination tests.

Under pre-EGTRRA, an employer's contribution to a qualified plan on behalf of a participant/employee is not considered to be compensation for tax deduction calculation purposes. For example, in 2001, Sally Diiro is paid a salary of $40,000, and her employer contributes $6,000 to a profit sharing plan on her behalf. For the employer's tax deduction purposes, her compensation is $40,000 (salary only) and not $46,000 (salary plus amount contributed to the profit sharing plan).

In addition, under pre-EGTRRA law, an employee's elective deferral contributions were deemed (i.e. treated) to be an employer contribution. Consequently, they were excluded when calculating the employer's deduction limit. The effect of this was to penalize an employer for establishing a 401(k) plan. For example, an employer with participants' compensation of $400,000 could make and deduct a profit sharing contribution of $60,000 ($400,000 x 15%). However, if this employer would allow the employees to make elective deferral contributions of $24,000, then the maximum amount which the employer actually contributes under pre-EGTRRA law is $32,400 ($400,000 -$24,000) x 15% - $24,000) and not $60,000.

Under EGTRRA, elective deferral contributions are no longer deemed employer contributions and will not reduce the amount of compensation with respect to which the employer's deduction is determined. In the above example, the employees will be able to defer $24,000, plus the employer will be able to contribute $100,000 ($400,000 x 25%).

A self-employed individual with a 401(k) plan will now be able to realize both types of contributions – the tax deduction based on the participants' compensation, plus the amount of permissible elective deferrals.

How will a self-employed person establish a 401(k) plan? If he or she does not currently sponsor a profit sharing plan, then he or she will initially establish a 401(k) plan by completing the adoption agreement of a prototype plan.

If he or she has an existing profit sharing plan, then he or she will be able to amend and restate his or her profit sharing plan by adopting a 401(k) prototype. At this time, we are not aware of any reason why a self-employed plan cannot adopt a GUST approved or to-be-approved 401(k) prototype and then also adopt an EGTRRA "good faith" amendment.

CWF definitely recommends that a self-employed individual consult with its legal and financial advisor before adopting a 401(k) plan.

CWF will be offering special pricing to those financial institutions which have purchased one of CWF's prototypes, but not the 401(k) prototype, and now wish to add the 401(k) prototype. ◆

Sample of FMV Statement Only – Does not qualify as a Substitute 5498

Collin W. Fritz & Associates
17301 State Hwy 371
PO Box 426
Brainerd, MN 56401

Statement

Tel. (800) 346-3961
Page 1

AMANDA HUG ANDKISS
Deceased as of 06/23/2001
3 SOUTH 3RD STREET
APARTMENT 1234
HITHERTON, NM 87734-1234

Reporting Period
from to
01/01/2001 12/31/2001

SIMPLE IRA
Inst Fed. ID # 11-2222222

Attained age 59 1/2 12/10/1979 Attained age 70 1/2 12/10/1990
Birthdate 06/10/1920
Social Security No. 111-11-1111 Retirement I.D....... 7111111111

------- Transaction Description -------- Date ------- Amount ----- Balance ---

Account 000000000000017 Type - CERTIFICATE OF DEPOSIT
Prior Balance 1,000.00

Balance as of 01-01-2001	1,000.00	Contributions since 01-01-2001	
Plus Contributions		For 2000	0.00
Rollovers, Transfers	0.00	For 2001	0.00
Plus Interest Earned	0.00		
Change in Fair Market Value	0.00		
Less Distribs./Transfers	0.00	Rollover(s)	0.00
Federal Tax Withheld	0.00	Transfer(s)	0.00
Less Penalty Interest/Fees	0.00	ROTH Conv	0.00
*Balance as of 12/31/2001	1,000.00		

* We will furnish to the IRS by May 31, 2002, the Fair Market Value of your IRA as of December 31, 2001 as indicated above. This is reported on the magnetic media equivalent for the 2001 Form 5498 (Individual Retirement Arrangement Information). Be advised, that you must file the 2001 Form 8606 by April 15, 2002, or by Due Date of Extension if: (1) you made non-deductible contributions to your IRA for 2001 (whether in 2001 or 2002); or (2) you received IRA distributions in 2001 and you have at any time made non-deductible contributions to any of your IRAs. You will have to pay a $50 penalty for each failure to file the 2001 Form 8606, unless you can show that the failure was due to a reasonable cause.

NOTE : If a decedent is shown as the participant on this form, it may be the FMV at date of death. If a decedent's name is shown as the participant and the FMV shown is -0-, the executor or administrator of the decedent's estate may request the Fair Market Value as of the date-of-death, pursuant to IRS Revenue Procedure 89-52.

The Pension Digest

Sample Substitute Form 5498

2001 - Substitute Form 5498

OMB No 1545-0747
IRA Contribution Information

Collin W. Fritz & Associates
17301 State Hwy. 371
PO Box 426
Brainerd, MN 56401
Phone: (800) 346-3961

☐ Corrected (if checked)

Institution FEIN	11-2222222
Date	05/31/2001
S.S.N.	222-22-2222
Plan #	0222222222

HUGES, HOWARD
143212 BEACH FRONT LANE
LOS ANGELES, CA 92342

Please Examine At Once
Check your Statement and notify us of any Discrepancy within Ten Days. Please Direct any Phone or Written Inquiries regarding your account to the IRA Manager at the above address.

Deceased as of 03/03/2001

This information is being furnished to the Internal Revenue Service.

Box 1	IRA contributions (other than amounts in boxes 2, 3, and 7-10)	$ 0.00
Box 2	Rollover contributions	$ 0.00
Box 3	Roth conversion amount	$ 0.00
Box 4	Recharacterized Contributions	$ 1,123.97
Box 5	Fair market value of account	$ 0.00
Box 6	Life insurance cost included in box 1	

Box 7: IRA ☒ SEP ☐ SIMPLE ☐ Roth IRA ☐ Rechar. ☐ Ed IRA ☐

Box 8	SEP contributions	$ 0.00
Box 9	SIMPLE contributions	$ 0.00
Box 10	Roth IRA contributions	$ 0.00
Box 11	Ed IRA contributions	$ 0.00

Special Note: We have furnished you this 20001 Substitute Form 5498 on or before May 31, 2002. This form has been sent to you because you have made a reportable IRA contribution of the type as indicated.

Instructions to Participant

The information on Form 5498 is submitted to the Internal Revenue Service by the trustee or issuer of your individual **retirement arrangement** (IRA) to report contributions and the fair market value of the account. For information about IRAs, see **Pub. 590**. individual Retirement Arrangements (IRAs), and **Pub. 560**. Retirement Plans for Small Business.

Reminder: *If you converted from a traditional IRA, simplified employee pension (SEP) IRA, or savings incentive match plan for employees (SIMPLE) IRA to a Roth IRA in 1998 and you elected to spread the taxable income over 4 years, you most include one-fourth of the taxable amount converted in your income in 2001. See your Form 1040 instructions.*

Box 1. Shows traditional IRA contributions for 2001 you made in 2001 and through April 15, 2002. These contributions may be deductible on your Form 1040 or 1040A. However, if you or your spouse was an active participant in an employer's pension plan, these contributions may not be deductible. This box does not include amounts in boxes 2-4 and 8-11.

Box 2. Shows any rollover, including a direct rollover to a traditional IRA, you made in 2001. It does not show any amounts you converted from your traditional IRA, SEP IRA, or SIMPLE IRA to a Roth IRA. They are shown in box 3. See the Form 1040 or 1040A instructions for information on how to report rollovers. If you have ever made any nondeductible contributions to your traditional IRA or SEP IRA and you did not roll over the total distribution, use **Form 8806,** Nondeductible IRAs, to figure the taxable amount. If property was rolled over, see Pub. 590.

Box 3. Shows the amount converted from a traditional IRA, SEP IRA, or SIMPLE IRA to a Roth IRA In 2001. Use Form 8606 to figure the taxable amount

Box 4. Shows amounts recharacterized from transferring any part of the contribution (plus earnings) from one type of IRA to another. See Pub. 590.

Box 5. Shows the fair market value of your account at year end.

Box 6. For endowment contracts only, shows the amount allocable to the cost of life insurance. Subtract this amount from your allowable IRA contribution included in box 1 to compute your IRA deduction.

Box 7. May show the kind of IRA reported on this Form 5498.

Box 8. Shows SEP contributions made in 2001, including contributions made in 2001 for 2000, but not including contributions made in 2002 for 2001. If made by your employer, **do not** deduct on your income tax return. If you made the contributions as a self-employed person (or partner), they may be deductible. See Pub. 560.

Box 9. Shows SIMPLE contributions made in 2001. If made by your employer, **do not** deduct on your income tax return. If you made the contributions as a self-employed person (or partner), they may be deductible. See Pub. 560.

Box 10. Shows Roth IRA contributions you made in 2001 and through April 15, 2002. **Do not** deduct on your income tax return.

Box 11. Shows education IRA (Ed IRA) contributions made in 2001 on, your behalf. **Do not** deduct on your income tax return. If the total of all contributions made to all your Ed IRAs this year exceeded $500, you should withdraw the excess, plus earnings, generally by April 15, or you may owe a penalty. You must keep track of your Ed IRA basis (contributions and distributions). See Pub. 590.

 Version #2 Department of the Treasury - Internal Revenue Service