THE Pension Digest

December 2002
Published Since 1984

ALSO IN THIS ISSUE –

QP Communication From the IRS, *Page 3*

Additional Thoughts on RMD Rules, *Page 6*

Higher Income Limits for 2003, *Page 7*

IRS Given Authority to Waive 60-Day Rollover Rule, *Page 8*

Questions & Answers, *Page 8*

RECAP FOR COMPLETING THE 2002 FORM 1099-R

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, and ZIP code		1 Gross distribution $	OMB No. 1545-0119 2002 Form 1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
		2a Taxable amount $		
		2b Taxable amount not determined ☐	Total distribution ☐	**Copy B** Report this income on your Federal tax return. If this form shows Federal income tax withheld in box 4, attach this copy to your return.
PAYER'S Federal identification number	RECIPIENT'S identification number	3 Capital gain (included in box 2a) $	4 Federal income tax withheld $	
RECIPIENT'S name		5 Employee contributions or insurance premiums $	6 Net unrealized appreciation in employer's securities $	
Street address (including apt. no.)		7 Distribution code — IRA/SEP/SIMPLE ☐	8 Other $ %	This information is being furnished to the Internal Revenue Service.
City, state, and ZIP code		9a Your percentage of total distribution %	9b Total employee contributions $	
Account number (optional)		10 State tax withheld $ $	11 State/Payer's state no.	12 State distribution $ $
		13 Local tax withheld $ $	14 Name of locality	15 Local distribution $ $

Form **1099-R** Department of the Treasury - Internal Revenue Service

Overview for traditional IRAs. Because the IRA accountholder may have made nondeductible contributions to any one of his or her traditional IRAs, an IRA custodian really does not know to what extent an IRA distribution is taxable.

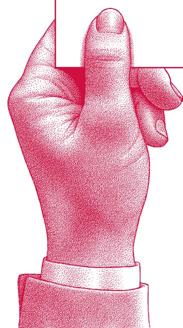
Except in limited situations, the law authorizes the IRA custodian to treat the entire distribution as being taxable. Thus, the gross distribution amount is to be inserted in both box 1 (gross distribution) and box 2a (taxable amount).

New for 2002

The 2002 instructions for completing Box 2b have been changed. In the past the instruction indicated that an IRA custodian "may" check the "Taxable amount not determined" box in box 2b. The 2002 instructions now read, "Check the 'Taxable amount not determined' box in box 2b."

There are exceptions when box 2a is not to be completed with the same amount as is reported in box 1. The exceptions are – the

Continued on page 2



DEADLINE FOR RMD NOTICE REMAINS JANUARY 31, 2003

The recently released IRS Publication 590 indicates that the deadline for furnishing the Required Minimum Distribution notice remains unchanged from its original January 31, 2003 deadline.

The November *Pension Digest* noted there may be a possible extension of that deadline, but CWF now strongly recommends that you have your notices mailed by January 31, 2003.

CWF has created six versions of the 2003 RMD Notice which fulfill this notice requirement. Call 1-800-346-3961 for information on these forms or to place an order.

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"The Pension Specialists"

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Recap for Completing Form 1099-R
Continued from page 1

reporting of the withdrawal of current year (excess) contributions, recharacterizations and direct rollovers. In the case of the current year (excess) contribution, the earnings amount will be inserted in box 2b. In the case of a recharacterization and a direct rollover; a zero is to be inserted.

Box 1. Gross Distribution

Enter the **total amount of the distribution** before income tax or other deductions were withheld. Include direct rollovers, a recharacterization and a Roth IRA conversion. However, in the case of a distribution by a trust representing
CDs redeemed early, report the net amount distributed.

Employer securities and other property. If you distribute employer securities or other property, include in box 1 the FMV of the securities or other property on the date of distribution.

Do not enter a negative amount in any box on Form 1099-R.

Box 2a. Taxable Amount

Generally, you are not required to compute the taxable amount of a traditional IRA or SEP nor designate whether any part of a distribution is a return of basis attributable to nondeductible contributions. Therefore, report the total amount distributed from a traditional IRA, SEP or SIMPLE in box 2a. This will be the same amount reported in box 1. Check the "Taxable amount not determined" box in box 2b.

For a distribution of contributions plus earnings from an IRA under **section 408(d)(4)**, report the gross distribution in box 1, only the earnings in box 2a, and enter Code 8 or P, whichever is applicable, in box 7. Enter Code 1, 2, 4, or 7, if applicable.

For a distribution of contributions without earnings after the due date of the individual's return, under section **408(d)(5)**, enter 0 (zero). Use Code 1 or 7 in box 7 depending on the age of the accountholder.

For a distribution from a conduit IRA that is payable to the trustee of, or is transferred to, an employer plan, or for an IRA recharacterization, enter 0 (zero) in box 2a.

Box 2b. Taxable Amount not Determined

Check this box if you are reporting a traditional IRA, SEP IRA, or SIMPLE IRA distribution.

Box 2b. Total Distribution

Enter an "X" in this box only if the payment shown in box 2b total distribution. A total distribution is one or more distributions within 1 tax year in which the entire balance of the account distributed. If periodic or installment payments are made, this box will be checked in the year the final payment is made.

Box 3. Capital Gain

Does not apply to traditional IRAs.

Box 4. Federal Income Tax Withheld

Enter any **Federal income tax withheld.** This withholding under section 3405 is subject to deposit rules, and the withholding tax return to be used is Form 945. Backup withholding does not apply. See **Pub. 15-A**, Employer's Supplemental Tax Guide, and the **Instructions for Form 945** for more withholding information.

Even though you may be using Code 1 in box 7 to designate an early distribution subject to the 10% additional tax specified in sections 72(q), (t), or (v), you are not required to withhold that tax.

The 20% withholding does not apply to distributions from any IRA, but withholding does apply to IRAs under the rules for periodic payments and nonperiodic distributions. For withholding, assume that the entire amount of an IRA distribution is taxable (except for the distribution of contributions under section 408(d)(4), in which only the earnings are taxable, and 408(d)(5)).

An IRA recharacterization is not subject to income tax withholding.

Coverdell ESAs. Do not withhold on a distribution from a Coverdell ESA.

Box 5. Employee Contributions or Insurance Premiums

Does not apply to traditional IRAs.

Box 6. Net Unrealized Appreciation in employer's Securities

Does not apply to traditional IRAs.

Box 7. Distribution Code

Enter an "X" in the **IRA/SEP/SIMPLE checkbox** if the distribution is from a traditional IRA, SEP IRA, or SIMPLE IRA. It is not necessary to check the box for a distribution from a Roth IRA or Coverdell ESA or for an IRA recharacterization.

You must enter the appropriate code(s) in box 7. Use the **Guide to Distribution Codes** on pages R-9 and R-10 (shown in this newsletter on pages 4 and 5) to determine the appropriate code(s) to enter in box 7 for any amounts reported on Form 1099-R. Read the codes carefully, and enter them accurately, because the IRS uses the codes to help determine whether the recipient has properly reported the distribution. If the codes you enter are incorrect, the IRS may improperly propose changes to the recipient's taxes.

When applicable, enter a numeric and an alpha code. For example, when using Code P for a traditional IRA distribution under section 408(d)(4), you must also enter Code 1, if it applies. For a normal distribution from a qualified plan that qualifies for the 10-year tax option, enter Codes 7 and A. For a direct rollover to an IRA for the surviving spouse of a deceased participant, enter Codes 4 and G. Do not use Code 4 with Code H.

Only three numeric combinations are permitted on one Form 1099-R: Codes 8 and 1, 8 and 2, or 8 and 4. If two or more other numeric codes are applicable, you must file more than one Form 1099-R. For example, if part of a distribution is premature (Code 1) and part is not (Code 7), file one Form 1099-R for the part to which Code 1 applies and another Form

Continued on page 3

The Pension Digest

Recap for Completing Form 1099-R
Continued from page 2

1099-R for the part to which Code 7 applies. In addition, for the distribution of excess deferrals, excess contributions, or excess aggregate contributions, parts of the distribution may be taxable in 2 or 3 different years. File separate Forms 1099-R using Code 8, D, or P to indicate the year the amount is taxable.

Even if the employee/taxpayer is 59 1/2 or over, use Code 1 if a series of substantially equal periodic payments was modified within 5 years of the date of the first payment (within the meaning of section 72(q)(3) or (t)(4)). For example, Mr. B began receiving payments that qualified for the exception for part of a series of substantially equal periodic payments under section 72(t)(2)(A)(iv) when he was 57. When he was 61, Mr. B substantially modified the payments. Because the payments were modified within 5 years, use Code 1 in the year the payments were modified, even though Mr. B is over 59 1/2.

If part of an eligible rollover distribution is paid in a direct rollover and part is not, you must file a separate Form 1099-R for each part showing the appropriate code on each form. If part of a distribution is an eligible rollover distribution and part is not (e.g., a minimum distribution required by section 401(a)(9)) and the part that is an eligible rollover distribution is directly rolled over, you must file a separate Form 1099-R to report each part.

Box 8. Other

Does not apply to traditional IRAs.

Box 9a. Your Percentage of Total Distribution

If this is a total distribution and it is made to **more than one person**, enter the **percentage** received by the person whose name appears on Form 1099-R. You need not complete this box for any IRA distributions or for a direct rollover.

Box 9b. Total Employee Contributions

Does not apply to traditional IRAs.

Boxes 10–15. State and Local Information

These boxes and Copies 1 and 2 are provided for your convenience only and need not be completed for the IRS. Use the **state and local information** boxes to report distributions and taxes for up to two states or localities. Keep the information for each state or locality separated by the broken line. If state or local income tax has been withheld on this distribution, you may enter it in boxes 10 and 13, as appropriate. In box 11, enter the abbreviated name of the state and the payer's state identification number. The state number is the payer's identification number assigned by the individual state. In box 14, enter the name of the locality. In boxes 12 and 15 you may enter the amount of the state or local distribution. Copy 1 may be used to provide information to the state or local tax department. Copy 2 may be used as the recipient's copy in filing a state or local income tax return.

Roth IRAs

Set forth are the instructions which specifically apply to Roth IRAs.

For distributions from a Roth IRA, report the gross distribution in box 1, but generally **leave box 2a blank**. Mark the "Taxable amount not determined" box in box 2b. Enter Code J or T in box 7. You may also enter Code 5, 8, or P with Code J and Code 3, 4, 5, 8, or P with Code T. It is not necessary to mark the IRA/SEP/SIMPLE checkbox.

However, for the distribution of excess Roth contributions under section 408(d)(4), report the gross distribution in box 1, and only the earnings in box 2a. Enter Code J & 8 or P in box 7.

CESAs

Set forth are the instructions that specifically apply to CESAs.

For distributions from a CESA, report the gross distribution in box 1, but generally **leave box 2a blank**. Mark the "Taxable amount not determined" box in box 2b. Enter Code M in box 7. You may also enter Code 3, 4, 8, or P with Code M. It is not necessary to mark the IRA/SEP/SIMPLE checkbox. For the withdrawal of excess contributions, see the standard rules.

Continued on page 4

QP COMMUNICATION FROM THE IRS

Many of you who are qualified plan prototype sponsors may have received a personalized letter from the Department of the Treasury. Do not be alarmed if you have received this correspondence. It appears that the Department of the Treasury has decided to send this informational letter to all prototype sponsors. The letter makes three points:

1. If a sponsoring employer (including one-person businesses) wishes to file IRS Form 5307 for a determination letter (only recommended for NONSTANDARDIZED plans), the listed information details what the sponsoring employer needs to submit. If your institution sponsors only standardized prototypes (and most of you do), and operate the plan according to CWF's Basic Plan Document, your business customers will not file for a determination letter.

2. The date for an employer to sign the amended prototypes has been extended from 12/31/02 to 9/30/03.

3. CWF must submit to the IRS copies of its approved Basic Plan Document and Adoptions Agreements, as well as any amendments (the EGTRRA Amendment and the new Model Amendment). We will be submitting these documents by the date required.

If you sponsor only standardized prototypes, you do not have to take any action with respect to this letter. If you do sponsor a nonstandardized prototype and have questions about whether or not you should file for a determination letter, please contact us.

Recap for Completing Form 1099-R

Continued from page 3

Guide to Distribution Codes

Distribution Codes	Explanations	*Used with code... (if applicable)
1—Early distribution, no known exception.	Use Code 1 only if the employee/taxpayer has **not** reached age 59½, 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 probably will not know if any medical or qualified higher education expense exception under section 72(t) applies. Therefore, use Code 1. However, if an early distribution is made from a qualified retirement plan because of an IRS levy under section 6331, use Code 2.	8, D, L, or P
2—Early distribution, exception applies (as defined in section 72(q), (t), or (v)).	Use Code 2 if the employee/taxpayer has **not** reached age 59½ to indicate that an exception under section 72(q), (t), or (v) applies. However, instead of Code 2, use Code 3 or 4, whichever applies, for an early distribution due to disability or death. Also use Code 2 for a Roth IRA conversion (an IRA converted to a Roth IRA) or reconversion if the participant is under age 59½ and for an early distribution made from a qualified retirement plan because of an IRS levy under section 6331.	8, D, L, or P
3—Disability.		M or T
4—Death.	Use Code 4 regardless of the age of the employee/taxpayer to indicate payment to a decedent's beneficiary, including an estate or trust. Also use it for death benefit payments made by an employer but not made as part of a pension, profit-sharing, or retirement plan.	8, A, D, G, L, M, P, or T
5—Prohibited transaction.		J or T
6—Section 1035 exchange.	Use Code 6 to indicate the tax-free exchange of life insurance, annuity, or endowment contracts under section 1035.	None
7—Normal distribution.	Use Code 7 (a) for a normal distribution from a plan, including a traditional IRA, if the employee/taxpayer is at least age 59½, (b) for a Roth IRA conversion or reconversion if the participant is at least age 59½, and (c) to report a distribution from a life insurance, annuity, or endowment contract and for reporting income from a failed life insurance contract under sections 7702(g) and (h). (See Rev. Rul. 91-17, 1991-1 C.B. 190.) Use Code 7 with Code A, if applicable. Generally, use Code 7 if no other code applies. **Do not** use Code 7 if Code M or T applies.	A
8—Excess contributions plus earnings/excess deferrals (and/or earnings) taxable in 2002.	Use Code 8 for an IRA distribution under section 408(d)(4), including excess Roth IRA contributions, or the withdrawal of excess contributions from a Coverdell ESA, unless Code P applies. Also use this code for corrective distributions of excess deferrals, excess contributions, and excess aggregate contributions, unless Code D or P applies. See **Corrective distributions** on page R-3. Also see **IRA revocation** on page R-2.	1, 2, 4, J, M, or T
9—PS 58 costs.	Use Code 9 to report premiums paid by a trustee or custodian for current life or other insurance protection (PS 58 costs). See **Box 2a** on page R-6 for more information.	None
A—May be eligible for 10-year tax option.	Use Code A only for participants born before 1936 or their beneficiaries to indicate the distribution is eligible for the 10-year tax option method of computing the tax on lump-sum distributions (on **Form 4972,** Tax on Lump-Sum Distributions). To determine whether the distribution may be eligible for the tax option, you need not consider whether the recipient used this method (or capital gain treatment) in the past.	4 or 7
D—Excess contributions plus earnings/excess deferrals taxable in 2000.	See the explanation for Code 8. Generally, do not use Code D for an IRA distribution under section 408(d)(4).	1, 2, or 4

*See the **Caution** for Box 7 instructions on page R-8.

Continued on page 5

THE Pension Digest

Recap for Completing Form 1099-R
Continued from page 4

Guide to Distribution Codes (Continued)

Distribution Codes	Explanations	*May be used with code...
E—Excess annual additions under section 415/certain excess amounts under section 403(b) plans.		None
F—Charitable gift annuity.		None
G—Direct rollover to IRA.	Use Code G for the direct rollover from a qualified plan or tax-sheltered annuity to a traditional IRA. Do not use this code for a distribution **from** an IRA. Do not use this code with any other code except Code 4, when applicable. See **Direct rollovers** on page R-2.	4
H—Direct rollover to qualified plan or tax-sheltered annuity.	Use Code H for the direct rollover of a qualified plan or tax-sheltered annuity to an eligible retirement plan other than a traditional IRA. Do not use this code with any other code. Also, use Code H if you know the distribution is from a conduit IRA and it is made payable to the trustee of or is transferred to an employer plan.	None
J—Early distribution from a Roth IRA, no known exception.	Use Code J for a distribution from a Roth IRA if the taxpayer has **not** reached age 59½, and if none of the exceptions under section 72(q), (t), or (v) are known to apply.	5, 8, or P
L—Loans treated as deemed distributions under section 72(p).	Do not use Code L to report a loan offset. See **Loans Treated as Distributions** on page R-4.	1, 2, or 4
M—Distribution from a Coverdell education savings account (ESA).	Use Code M for any distribution from a Coverdell ESA.	3, 4, 8, or P
N—Recharacterized IRA contribution made for 2002.	Use Code N for a recharacterization of an IRA contribution made for 2002 and recharacterized in 2002 to another type of IRA by a trustee-to-trustee transfer or with the same trustee.	None
P—Excess contributions plus earnings/excess deferrals taxable in 2001.	See the explanation for Code 8. The IRS suggests that anyone using Code P for the refund of an IRA contribution under section 408(d)(4), including excess Roth IRA contributions, or the withdrawal of excess contributions from a Coverdell ESA advise payees, at the time the distribution is made, that the earnings are taxable in the year in which the contributions were made.	1, 2, 4, M, J, or T
R—Recharacterized IRA contribution made for 2001.	Use Code R for a recharacterization of an IRA contribution made for 2001 and recharacterized in 2002 to another type of IRA by a trustee-to-trustee transfer or with the same trustee.	None
S—Early distribution from a SIMPLE IRA in first 2 years, no known exception.	Use Code S only if the distribution is from a SIMPLE IRA in the first 2 years, the employee/taxpayer has not reached age 59½, and none of the exceptions under section 72(t) are known to apply. The 2-year period begins on the day contributions are first deposited in the individual's SIMPLE IRA. Do not use Code S if Code 3 or 4 applies.	None
T—Roth IRA distribution, exception applies.	Use Code T for a distribution from a Roth IRA if the taxpayer is at least age 59½, or if an exception under section 72(q), (t), or (v) applies. Also use Code T if Code 3 or 4 applies.	5, 8, or P

ADDITIONAL THOUGHTS ON RMD RULES

1. The approach of the Required Minimum Distribution (RMD) laws is straight forward. A required distribution must be made to an IRA accountholder for the year he or she attains age 70 1/2 and each subsequent year. A required distribution must be made to an IRA beneficiary within certain deadlines after the IRA accountholder dies.

2. An IRA custodian is required to use the new life expectancy tables to calculate the RMDs for accountholders and beneficiaries for the calculations for 2003 and all subsequent years.

3. An IRA custodian must furnish an RMD notice/calculation on or before January 31, 2003 for 2003.

a. You are allowed to use the Uniform Lifetime Table to prepare the notice for all IRA accountholders subject to the RMD rules for 2003. That is, you are not required to prepare the RMD Notice by using the Joint Life Tables for those IRA accountholders who have a sole spouse beneficiary who is more than 10 years younger. CWF suggests using the Uniform Lifetime Table for all your notices, but then informing those who qualify for the use of the Joint Table to contact you if they wish to have the special calculation.

b. You are not required to furnish this notice to IRA beneficiaries. There is not much logic for this except that the IRS is being nice. CWF suggests you furnish this notice to avoid any beneficiary's claim that he or she failed to take an RMD because you had not informed him or her of this requirement.

4. The IRA accountholder must take an RMD for the year he or she attains age 70 1/2 and for all subsequent years. There are two exceptions.

Exception #1. If a person dies before his or her required beginning date, an RMD is not required for that year even though the person attained age 70 1/2 or was older than 70 1/2 that year. For example, if a person attains age 70 1/2 on 1-10-02 but dies on 3-28-03, there is no RMD for 2002, because he or she died before his or her required beginning date of 4-1-03.

Exception #2. If a person dies on or after his or her required beginning date, the RMD for the year of his or her death will have already been calculated. In general, this calculation is to be made in January of each year. You do not recalculate the distribution amount if the IRA accountholder dies during the year. This RMD is not required to be paid to the decedent or to his or her estate. In fact, it is not proper to pay the RMD to the decedent or his or her estate. The RMD must be paid to the designated beneficiary(ies) by December 31 of the year of death, because the standard rule is that the accountholder's distribution schedule must be continued. Each beneficiary must be paid his or her proportionate share of the RMD by that year's December 31.

5. For simplicity reasons, the RMD amount for the IRA accountholder is calculated using either the lifetime table or the joint life-expectancy table. The single-life table is never used to calculate the RMD for an IRA accountholder; its use is limited to calculating the RMD for a beneficiary.

It is important to note that section 1.401(a)(9) of the Code contains the rule that the IRA must be distributed to the accountholder over a period which cannot exceed the life expectancy of the accountholder and his or her beneficiary. For simplicity reasons, the IRS created the Uniform Lifetime Table and has mandated its use to calculate the RMD for all IRA accountholders regardless of who the beneficiary is. For example, the Uniform Lifetime Table is to be used for a person who has designated his or her church or estate as the beneficiary. The Uniform Lifetime Table is the old MDIB table, as adjusted for improved life expectancies. The Uniform Table is used for every beneficiary situation except when the spouse is the sole beneficiary and is more than 10 years younger. The Joint Life-Expectancy Table is used when the spouse is the sole beneficiary and is more than 10 years younger, because it provides a life-expectancy factor larger than what is provided by the Uniform Lifetime Table. Consequently, the RMD will be similar.

6. The final RMD regulation makes clear that the new method is to be used to calculate a beneficiary's RMD for 2003 and subsequent years, even if the IRA accountholder dies before the final regulation was in effect. For example, even though you have been making distributions to a beneficiary since 1991 using the applicable elections, the new rules must be used for distributions to be made in 2003 and subsequent years.

7. When a spouse beneficiary elects to treat the deceased spouse's IRA as his or her own, the RMD calculation for the years after the year of the death is for the spouse as an accountholder, and not as a beneficiary. The RMD amount calculated for the year of death will need to be distributed as discussed below.

8. If the IRA accountholder dies before his or her required beginning date, then an IRA beneficiary is required to take certain distributions pursuant to the life-distribution rule or the five-year rule. The final RMD regulation provides that a beneficiary is deemed to have elected the life-distribution rule unless he or she elects the five-year rule. This election must be made by December 31 of the year after the year of the accountholder's death. Technically, the beneficiary is not required to elect the life-distribution rule. CWF believes the better administrative approach is to give the beneficiary an explanation of the various rules and then allow him or her to expressly elect whether he or she will use the life-distribution rule or the five-year rule. This election must also be made by December 31 of the year after the year of the accountholder's death.

Continued on page 7

THE Pension Digest

Additional Thoughts on RMD Rules,
Continued from page 6

9. The cardinal RMD law is that the beneficiary of an accountholder who dies after his or her required beginning date must take distribution at least as rapidly as the accountholder was taking it. Again, for simplicity reasons, the IRS chose to modify this rule. The IRS, in general, settled on a rule requiring the distribution period to be based on the single life expectancy of the beneficiary rather than continuing to adjust the single life expectancy of the original accountholder or the joint life expectancy of the accountholder and a beneficiary. In those situations where the beneficiary is older than the accountholder (e.g. accountholder age 77 and a sister beneficiary age 81), then the distribution period will be based on the age of the accountholder.

The RMD for the year of death will have already been calculated. It will need to be paid to the beneficiary on or before December 31 of such year. This is true for both spouse beneficiaries and nonspouse beneficiaries.

10. Beneficiaries subject to the five-year rule have only until December 31, 2003, to elect to switch to the life-distribution rule. CWF recommends that you send a special notice to all such beneficiaries. You may draft your own special letter, or CWF has one available for purchase.

11. The above rules are RMD rules. A beneficiary always has the right to take a distribution larger than the minimum. This assumes that the IRA accountholder or grantor has not stipulated that only the minimum may be paid to a beneficiary.

12. Handling RMDs for the year of the accountholders death. In order to explain this topic, the following situation is assumed so various points may be illustrated. An IRA accountholder, who was born May 6, 1921, died on August 16, 2002. Obviously, the accountholder died after his or her required beginning date. The RMD for 2002 was not distributed before his or her death. Two children were the designated beneficiaries, each to receive 50%.

How is the RMD amount for 2002 to be handled? The 2002 RMD amount which had been calculated for the deceased accountholder is required to be distributed on or before 12-31-02. Each child beneficiary will be required to take his or her 50% share of the 2002 RMD.

Some people seem to have the belief that the amount for 2002 would need to be paid either to the decedent or to the decedent's estate. If this has been stated at seminars, it is incorrect. We are aware that a number of the big software vendors are telling banks that the RMD for the year of the death is to be paid out to the decedent or his or her estate. Again, this is incorrect. For the following reasons, an IRA custodian must not do this.

a. Upon death, the owner of the IRA changes from the accountholder to the beneficiary(ies).

b. Any requirement of the accountholder to take an RMD ceases upon his or her death.

c. The general concept of the RMD beneficiary laws is that the distribution schedule, as established by the accountholder, must be continued by the beneficiary(ies). The final RMD rules modify (and confuse??) this concept somewhat since distributions occurring after the year of death are based on the age of the beneficiary and not that of the accountholder and his or her beneficiary. The IRS allowed the single life calculation based on the beneficiary for simplification reasons.

d. The IRA tax rules provide that it is the recipient of a distribution who is required to include the distribution in his or her income. This would be the beneficiary(ies).

e. It is incorrect to write a check for the amount of the 2002 RMD to either the decedent or to his or her estate, as the proper payee is the beneficiary.

HIGHER INCOME LIMITS FOR 2003

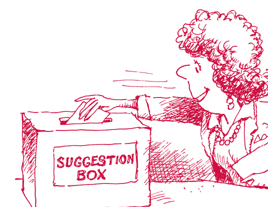
We soon will be in that time of year when contributions may be made for both tax year 2002 and tax year 2003. The contribution limits of $3,000 (if younger than age 50) and $3,500 (if over age 50) are the same for tax years 2002-2004 unless there would be new tax legislation.

However, the phase-out income limits for 2003 versus 2002 are $6,000 higher. See the table below. More individuals are now eligible to make deductible contributions. You may make your customers aware of these limits by providing them various CWF brochures. Remember though, that the phase-out limit for a spouse who is not an active participant is $150,000-$160,000.

Schedule of Income Limit Changes

Year	Single Filer Who is an Active Participant	Married Filing Jointly Applies if One Spouse or Both are Active Participants
2001	33,000 - 43,000	53,000 - 63,000
2002	34,000 - 44,000	54,000 - 64,000
2003	40,000 - 50,000	60,000 - 70,000
2004	45,000 - 55,000	65,000 - 75,000
2005	50,000 - 60,000	70,000 - 80,000
2006	50,000 - 60,000	75,000 - 85,000
2007 & subsequent yrs.		80,000 - 100,000

Suggestion—
You may combine your customer's January IRA Fair Market Value Statement, 1099-R, and 2003 RMD Notice in the same envelope.



IRS GIVEN AUTHORITY TO WAIVE 60-DAY ROLLOVER RULE

As you are aware, funds distributed from an IRA or qualified plan may be rolled back into the account if the transaction takes place within 60 days of the distribution. If not, the distribution is taxable to the individual. Congress has now passed a law granting the IRS authority to, at its discretion (it is not required to), waive the 60-day rollover rule if enforcing it would cause the individual undue hardship. This authority becomes effective for distributions made after 12/31/01. The IRS could waive the 60-day rollover period if not to do so would be "against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement." Some types of hardships would be (1) a participant has received payment by check but has not cashed the check; (2) errors are committed by a financial institution; (3) death, disability, hospitalization, etc; which are beyond the individual's control. Although this a step in the right direction, we believe that addressing just this one rule, when there are many rules governing a rollover, is not as helpful as it could be. There are times when accountholders could use relief from other rollover rules such as the "one-rollover-per-year" rule. If asked, would the IRS say that they now have the authority to waive the one-rollover-per-year rule? We believe the answer would be "no," they only have authority to waive the 60-day rule.

To illustrate, assume an accountholder withdraws $20,000 from his IRA on June 10, 2001, and rolls the $20,000 back in by July 30. He has met the 60-day requirement. Now, however, he withdraws $25,000 on 11/5/01, thinking he can again roll it back in without penalty by 1/5/02. What rollover rule would apply here? Is he under the "one-rollover-per-year" rule (and therefore could not roll the $25,000 back into the IRA because it was the second rollover in a twelve-month period)? Or could he be under the extended 60-day rule? Would the IRS waive the 60-day rule so that the individual could wait until after the 1-year period (after June 10, 2002) to roll the funds back in without penalty? Obviously paying income tax on an additional $25,000 could be an undue hardship. However, we don't believe the IRS would grant relief for this situation.

Your staff must be aware and be able to communicate to customers that there is the 60-day rule, the "one-rollover-per-year" rule, and that a non-spousal IRA beneficiary never has rollover rights.

QA QUESTIONS AND ANSWERS

Question: If an employee, who has made elective deferrals to his employer's SIMPLE plan, separates from the service of his employer prior to the date the employer makes its matching contribution, can this separated employee be denied the employer matching contribution? The employer does not wish to have this individual receive a matching contribution for 2001; his reasoning is that because he (the employer) will not actually contribute the funds until months after the employee has separated from service, this employee should not be entitled to the matching contribution. This employer wishes to create a rule stating that if an employee quits prior to the actual contribution of the funds, the employee is not entitled to receive a matching contribution.

Answer: As an example, let's assume the employee separated from service in May of 2002, and had made elective deferrals in all of 2001 and through May of 2002. Let's also assume the employer is a corporation whose tax return was due 3/15/02, but who had an extension to file until 9/15/02.

Under the SIMPLE rules, an employer is not required to make its matching contribution until its tax-filing deadline. However, CWF is aware of NO exception to the rule that if an employee makes elective deferrals, the employee is then entitled to the employer match. If an employee has elective deferrals for a year, he/she is entitled to the employer matching contribution (even if the funds are contributed after the employee separates from service). The match is ALWAYS owing; the employer is merely given a grace period in which to contribute the funds. The employer's duty to make the matching contribution is not reduced because the employee has separated from service. There is no authority for the employer to instate a rule to the contrary.

This employee is entitled to a matching contribution for 2001, and also for 2002, if he/she indeed made elective deferrals. The employer's failure to make a matching contribution for this one employee puts the entire plan in jeopardy of being disqualified.

If the employer or the employer's attorney has some authority on which to base the employer's not making the match to this employee, please furnish it to CWF. We are unaware of such authority under Code section 408(p) or any related regulation.