The Pension Digest

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ALSO IN THIS ISSUE –

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

Update on Proposed Laws—Fighting Words

Who would have ever thought that pension and IRA law changes would lead to fights between two Representatives! It almost happened.

In the April newsletter, we summarized the proposed Pension Preservation and Savings Extension Bill of 2003 (HR 1776). The bill had been assigned to the House Ways and Means Committee. the primary sponsors were Rep. Rob Portman (R-OH) and Benjamin Cardin (D-MD). On July 18, 2003, the Bill was passed out of committee and sent to the full House. This revised Bill is a much smaller version of the Bill as proposed in April. The costs of the revised Bill is estimated to be $48 billion versus the $200 billion cost of the original Bill. It is very unclear if the Bill will continue to have any Democratic support because of how the bill was considered (or not considered) by the full committee. The Republicans brought the Bill up for vote even though they had not given the Democrats a copy of the revised bill. The Democrats then exercised their parliamentary right to have the full Bill read. The Republicans and Democrats then started arguing about who had the right to use certain rooms to meet. Fighting almost occurred between members. And who said pensions and IRAs were boring.

Set forth below is a summary of the principal proposed law changes to be considered by the full House after Congress returns from its summer recess. Congress is to resume on September 2, 2003.

1. The law changes would sunset after 2010. This change probably accounts for much of the lower cost of the Bill—from $200 billion to $48 billion. By making this change, the Republicans are trying to take away much of the Democrats argument of the cost of the tax bill. This is a dangerous move though since the tax changes will end as of December 31,

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IRAs and Complying With the Customer Identification Program (CIP) Laws and Regulations

The deadline for financial institutions to implement their CIP is October 1, 2003. The CIP certainly applies to IRAs and other tax-preferred accounts. The purpose of this article is to serve as a reminder that October 1, 2003, is very near. Presumably your institution has implemented, or is well along with implementing, your CIP program for your IRA deposit accounts along with your other deposit accounts. Section 326 of the USA Patriot Act (USAPA) mandates every financial institution to adopt a CIP.

The CIP requires each financial institution to establish written account opening procedures, which includes collecting certain information BEFORE opening an account and verifying each new customer's identity and the collected information within a reasonable time. The following information is the minimum: (1) name; (2) a physical/street address; (3) date of birth, if an individual; and (4) a government issued identification number. For most U.S. persons this will be a social security number or an employer identification number. For non-U.S. persons this will either be a U.S. tax identification number, a passport number and country of issuance, alien identification number, or number and country of issuance of any other government issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

The CIP requires each institution to have written procedures to be used to verify the collected information. It may use documents, non-documentary methods or both methods to verify to a reasonable belief that you know a customer's true identity. The regulators want a financial institution to obtain more than just one type of documentary verification. Picture

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2010 unless new legislation would be enacted extending the law changes.

2. The 50% excise tax which applies to failed RMD distributions would be reduced to 20%.

3. The graduated IRA contribution limit changes as enacted by EGTRRA would be accelerated to be effective as of January 1, 2004. The limit for years 2004-2010 would be $5,000 for a person younger than age 50 and $6,000 for a person age 50 or older.

4. Under existing law, required distributions apply to a person for the year he or she attains age 70½. Age 72 would replace age 70½ for years 2004-2007, and age 75 would replace age 72 for years 2010. There would be special transitional rules.

5. The bill would allow certain recipients of pension and IRA distributions during 2004-2008 to exclude $2,000 each year. This exclusion would apply only if the distributions qualify as a "lifetime annuity." However, a series of substantially equal periodic payments would qualify. The argument of those wanting this change is that something needs to be done to encourage participants to not take lump sum distributions.

6. The graduated 401(k) elective deferrals limit changes as enacted by EGTRRA would be accelerated to be effective as of January 1, 2004. The new limit for years 2004-2010 would be $15,000 for a person younger than age 50 and $20,000 for a person age 50 or older.

7. The proposed changes in the Saver's credit were cut back substantially. The credit would apply to 2004-2010 rather than the change being permanent. The income limits would not be changed from the $30,000/$50,000 limits to $45,000/$60,000.

8. An IRA accountholder would be able to transfer any portion of his or her IRA to a spouse at any time.

9. Under current law, nonspouse beneficiaries do not have any rollover rights. It does not matter if the paying entity is a qualified plan, 403(b), 457 plan or an IRA. Many qualified plan administrators either hate servicing inheriting beneficiaries or they do a horrible job. There would be many rollovers by beneficiaries if they could because many plans are written to force beneficiaries to take their balances over a much shorter time period than the law permits. The beneficiary RMD rules would apply to such rolled over accounts.

10. Participants of 401(k), 403(b) and 457(b) plans would be able to directly roll over (i.e. convert) their 401(k) funds into a Roth IRA. It would be a taxable event. The conversion eligibility rules would not be changed. This change makes sense as long as the section 402(f) as furnished by the employer properly explains the tax options and consequences.

11. The Form 5500-EZ filing requirements for one-person plans would be changed. The $100,000 limit would be replaced with a $250,000 limit.

12. The Form 5500 filing requirements for plans will less than 25 participants would be simplified.

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IDs should be used to the extent available. Presumably, social security cards will also be used to a great extent. Non-documentary verification methods include contacting the customer, contacting acquaintances of the customer, contacting databases, checking references, etc.

The CIP must include procedures whereby the financial institution gives its customer adequate notice of this new rule requesting information to verify each customer's identity for security purposes. Such notice requirement may be met by including a notice on the account application, posting a notice in the lobby for those customer who come into the institution, furnishing a brochure containing the notice, posting the notice on the web site for those accounts being opened on the web site, etc.

The regulation sets forth the following model notice:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

The CIP will also need to define the procedures for record retention. The final regulation has two record retention requirements. First, a financial institution will be required to retain the customer information (name, address, etc.) for five years after the account is closed. Second, a financial institution will be required to retain all descriptions of any document upon which you relied to verify a customer's identity for five years after the record is made. That is, you are not required to retain the actual document. The description should include the type of document, any identification number(s) contained in the document, and the issuance date and expiration date, if applicable. The description must also define the methods to be used to verify the identity of a customer, the results of search, and the resolution of any "substantive" discrepancy.

The CIP must include procedures for determining if the customer appears on any list of known or suspected terrorists. Such lists have not yet been finalized. A financial institution will be notified by the Treasury or a regulator regarding what lists must be consulted. The CIP procedure must define "when" such lists must be consulted. In general, it must happen within a reasonable period of time after the account is opened. And the CIP procedure must require the financial institution to comply with all Federal directives issued in connection with such lists.

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Duty of Financial Institution to Furnish SIMPLE Summary Description—October is Close at Hand

What are a financial institution's duties if it is the custodian or trustee of SIMPLE IRA funds? After a SIMPLE IRA has been established at an institution, it is the institution's duty to provide a Summary Description each year within a reasonable period of time before the employees' 60-day election period. CWF believes that providing the Summary Description 30 days prior to the election period would be considered "reasonable." The actual IRS wording is that the Summary Description must be provided "early enough so that the employer can meet its notice obligation." The employer is required to furnish the summary description prior to November 1.

IRS Notice 98-4 provides the rules and procedures for SIMPLEs. This notice is reproduced on page 17-67 of CWF's 2003 IRA Procedures Manual, which most of you should have recently received. If you do not have this resource manual, an order form is enclosed for your convenience.

As you are probably aware, the employer may complete either Form 5305-SIMPLE (where all employee's SIMPLE IRAs are established at the same employer-designated financial institution) or Form 5304-SIMPLE (where the employer allows the employees to establish the SIMPLE IRA at the financial institution of their choice). <u>No matter which of these forms are completed, the financial institution which is the trustee of any SIMPLE IRA funds is required to furnish the Summary Description</u>. Even though an institution may only have a relationship with the individual accountholder and not the employer, a relationship between the institution and the employer is created simply because the funds are deposited into the SIMPLE by the employer.

There is also what is termed a "transfer" SIMPLE IRA. If your institution has accepted a transfer SIMPLE IRA, and there have been no employer contributions, then there is no duty to furnish the Summary Description. However, if there is the expectation that future contributions will be made to this transfer SIMPLE IRA, then the institution will have the duty to furnish the Summary Description.

<u>The penalty for not furnishing the Summary Description is $50 per day</u>.

The law actually states that the Summary Description must be furnished to the employer. However, the IRS has issued written guidance (Notice 98-4) which allows an institution to furnish the Summary Description to the individual employee, instead.

If an institution furnishes the Summary Description to an employee, it must include:

- ✔ A current 5304-SIMPLE — this could be filled out by the employer, or it could be the blank form
- ✔ Instructions for the 5304-SIMPLE
- ✔ Information for completing Article VI (Procedures for withdrawal) (You will need to provide a memo explaining these procedures.)
- ✔ The financial institution's name and address.

The trustee should also provide guidance to either the employer or the employee concerning the need for the employer to complete the first two pages of the form and the provision that it must be distributed to all eligible employees. Obviously, if an institution provides the employee with a blank form, he/she will need to have the employer complete it, and, the employee may well need to remind the employer that it needs to provide the form to all eligible employees.

CWF has created a form (reproduced in this newsletter) which covers the approach of the Summary Description being provided to the employees.

Additional Reporting Requirements –

The trustee must also provide each participant with a statement showing the account balance as of 12/31 of each year (this is the same as for the traditional IRA), and include the activity in the account during the calendar year (this is not required for a traditional IRA). There is a $50 per day fine for failure to furnish this statement (with a traditional IRA, it would be a flat $50 fee). CWF also suggests providing a memo of explanation.

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Summary> CIP applies to the opening of IRA accounts and other tax preferred accounts. Each financial institution must fully implement its CIP by October 1, 2003. With respect to traditional IRA and Roth IRA accounts, CWF has prepared a form to be used to allow you to verify a customer's identity before he or she opens the traditional IRA or the Roth IRA. CWF has also written a Customer Identification Procedure to be used by a financial institution with respect to opening IRA accounts and other accounts. An institution may modify it to fit its particular circumstances.

SIMPLE — Summary Description for the 2004 Calendar Year
(Alternative Method)

TO: **SIMPLE ACCOUNTHOLDER**

Name: ____
Address: ____
City/State/Zip: ____

FROM: **SIMPLE IRA CUSTODIAN**

DATE: ____

Each year, we, as your SIMPLE-IRA custodian, are required to furnish either you or your employer with a legal document called a SUMMARY DESCRIPTION. The furnishing of this summary is to remind you of your rights under the SIMPLE-IRA plan which your employer sponsors. In general, during the period of November 1 to December 31, 2003, you have the right to make or change how much will be deferred or withheld from your paychecks during 2004 to be contributed to your SIMPLE-IRA. in addition, you have the right to change the financial institution at which your SIMPLE-IRA contributions are made.

Your employer has created the SIMPLE-IRA plan it sponsors by executing the IRS Model Form 5304-SIMPLE (Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) — Not for use with a Designated Financial Institution). Our relationship with your employer is very limited. We deposit funds as paid to us by your employer to be contributed into your SIMPLE-IRA. The contribution amount is attributable to your elective deferrals and your employer's matching contributions.

The IRS has authorized two alternatives for us to furnish the 2004 summary description. We may either furnish a completed copy of the Form 5304-SIMPLE to your employer who then is required to furnish you with a copy. Alternatively, we are permitted to furnish you with a blank copy of the Form 5304-SIMPLE and the following information as set forth below. We have chosen to use this alternative method.

1. The current instructions for the Form 5304-SIMPLE;

2. Our name and address as follows:

   ____
   ____
   ____
   ____

3. The procedures, including describing all fees and charges) which govern your withdrawing funds from your SIMPLE-IRA are as follows:

   ____
   ____
   ____
   ____
   ____
   ____
   ____
   ____
   ____

4. A reminder that your employer will need to complete the first two pages of the Form 5304-SIMPLE and to distribute completed copies to all eligible employees. The employer will also need to inform you if it will be making a matching contribution equal to the employee's salary reduction contributions subject to a percentage limit of 1-3% which the employer will need to define or a nonelective contribution equal to 2% of you employees' compensation.

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Understanding Beneficiary Designation Situations

The provisions governing beneficiary designations are included in both the IRA plan agreement and the designation of IRA beneficiary forms. An IRA accountholder has the right to designate his/her primary beneficiaries and his/her contingent beneficiaries.

The IRA plan agreement provides that if the accountholder does not name a beneficiary or if none of the named beneficiaries are alive on the date of the accountholder's death, then the assets will be paid to the accountholder's estate.

Under the CWF forms, a contingent beneficiary receives or inherits an interest only if there is no primary beneficiary. This means that if there is at least one primary beneficiary, then the contingent beneficiary(ies) will not receive any portion (as a contingent beneficiary).

Section 1.7 of Article VIII of the IRA plan agreement provides that an IRA accountholder must inform each person who has been designated as the accountholder's beneficiary that he or she is a beneficiary and that they have the duty of notifying the IRA custodian of the accountholder's death.

The form contemplates the possibility that the accountholder will designate one or more primary beneficiaries and one or more contingent beneficiaries and then one or more of these individuals may die before the accountholder. It would certainly be best if the accountholder would execute a new beneficiary form after a designated beneficiary predeceases the accountholder, but the form is written to define what the accountholder wants to have happen if a beneficiary predeceases him or her.

For this special situation, the form provides two options—a per capita approach and a per stirpes approach. The per capita approach is deemed elected if neither approach is expressly elected.

Under the per capita approach, the form provides the result that the interest of that deceased beneficiary (and all heirs) shall terminate totally, and the shares of the other primary beneficiary(ies) will consequently increase.

Note that under the per capita approach, if only one person is named as a primary beneficiary, and there is one or more persons named as contingent beneficiaries, and the primary beneficiary predeceases the accountholder, then the contingent beneficiaries, in effect, become the primary beneficiaries. This is not necessarily the result under the per stirpes approach.

Under the per stirpes approach, the form provides that the interest of the deceased beneficiary shall be paid to his or her heirs (or issue) who are alive or who have living issue. Such heirs or issue take the decedent's share by right of representation. Persons of the same class shall share equally. For example, in 1997 when establishing her IRA, Katherine Bell had designated her three daughters (Maria, Nancy, and Lynn) as her primary beneficiaries. Each was to receive a 1/3 share. Maria has one son, David. Nancy has a daughter, Betty, and a son, David. Lynn has two sons, Mark and Tom. Katherine Bell had elected the per stirpes approach and she had designated her church as her contingent beneficiary. Nancy died on June 30, 2003 and Katherine died on July 15, 2003. Maria receives a 1/3 interest, Lynn receives a 1/3 interest, and Betty and David will share the 1/3 interest which would have gone to their mother, Nancy, if she had survived Katherine.

The per stirpes approach serves the concept that many individuals do not wish to favor one family member over another family member. This is generally true for family members of the same class (i.e. children). If a child beneficiary predeceases the accountholder, then the accountholder many times wants that deceased child's share to go to that child's children (i.e. the grandchildren) rather than to the deceased child's brothers or sisters.

Note that the per stirpes approach has the effect of replacing one primary beneficiary with another primary beneficiary(ies).

The situation may arise where a person will be both a primary beneficiary and also a contingent beneficiary. In such a situation, being a primary beneficiary takes precedence over being a contingent beneficiary. For example, David Clark has an IRA. He has been married to Ann for 34 years. They have four children (Missy, Fred, Mark and Ben). He designates his wife, Ann, to be his primary beneficiary. For whatever reason, he only names Missy to be his contingent beneficiary. He had checked the per stirpes box (box 2). If Ann predeceases David, then we believe all four children become the primary beneficiaries of David Clark's IRA. The fact that Missy has already been designated as the contingent beneficiary does not mean that she has a greater right to the IRA than her three brothers who were not named as contingent beneficiaries. All four were substituted as primary beneficiaries once Ann died.

Also note that the per stirpes rule applies to both primary and contingent beneficiaries. That is, in some situations, a per stirpes contingent beneficiary may inherit his or her share of a deceased accountholder's IRA.

For example, Mary Doe maintains an IRA. She is age 44. She has one daughter, Amy, age 13 who is designated as the primary IRA beneficiary. Amy does not have any issue. Mary designates her brother, John Doe, and her sister, Alice Doe, to be the contingent beneficiaries. Each is to receive a 50% share. John has one child, Vivian. Alice has one son, Marty.

Alice and Amy were killed in a car accident on May 22, 2003, as they were returning from Amy's gymnastics practice. Mary died unexpectedly of a heart attack on July 15, 2003.

Amy's interest never came into being and passed to the contingent beneficiaries since she did not have any issue. John inherits 50% of Mary's IRA as he was directly designated as a contingent beneficiary. Marty also inherits 50 percent of Mary's

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IRA as he takes his mother's (Alice's) share under the per stirpes provision.

If the per stirpes box has been checked, once an IRA custodian has knowledge that an accountholder has died and that a designated beneficiary had predeceased the accountholder, then the IRA custodian has the duty to gather the necessary information to determine who is a "per stirpes" primary beneficiary. The IRA custodian would need to ask family members to answer various questions and provide documentation demonstrating who qualifies as issue of the predeceased beneficiary. No payment would be necessary until the IRA custodian had made this determination.

The term "issue" has the general meaning of a lineal descendant (e.g. child, grandchild, great-grandchild, etc.) Normally, this term does not cover one's spouse. CWF will be modifying its forms to make clear that a spouse is not "issue."

September 30, 2003 QP Deadline Changed to January 31, 2004

We did not think the IRS would do it, but they have again chosen to extend the deadline for certain qualified plans to adopt the GUST remedial amendment. The IRS recently issued Rev. Proc. 2003-72. The new deadline for GUST amendments is January 31, 2004, if certain conditions are met. One of those conditions is that the plan must file a request for the issuance of a favorable determination letter on or before January 31, 2004. For some plans there will be a second condition; they will be required to pay a special fee of $250.

The IRS has also chosen to extend the deadline for adopting an RMD amendment. In general, the deadline had been the last day of the first day of the plan year commencing on or after January 1, 2003. For calendar year plans this deadline was December 31, 2003. The QP sponsor was required to furnish a copy of the RMD amendment to an adoption employer by December 31, 2003. The new deadline will be the 91st day following the IRS' issuance of a favorable determination letter as filed pursuant to Rev. Proc. 2003-72.

The new deadline of January 31, 2004, will apply to two categories of plans.

Category #1. The sponsoring employer ADOPTS its GUST restated plan on or before September 30, 2003, but does not submit its request for a favorable determination letter by September 30, 2003, but does submit it on or before January 31, 2004.

Under prior rules the adopter of a non-standardized prototype was only able to qualify for the September 30, 2003, deadline if it filed its request for the issuance of a favorable determination letter on or before September 30, 2003. Thus, the IRS has decided to be nice to those employers who adopted the GUST amendment on or before September 30, 2003, by granting them an additional four months to make the IRS filing. CWF and other pension consulting firms will appreciate being given an additional four months to complete the determination letter filings. I would expect the IRS also made this change to help the IRS. The IRS very well may be overwhelmed with such determination letter filings, and with this extension, the IRS will be able to handle this work more efficiently.

Category #2. A sponsoring employer of a prototype plan FAILS to adopt its GUST plan on or before September 30, 2003.

An employer sponsoring a standardized prototype may fall into this category just as an employer sponsoring a non-standardized prototype may.

Such an employer will still be able to amend its plan for GUST as long as it adopts it GUST restated plan on or before January 31, 2004, submits its request for a favorable determination letter by January 31, 2004, and includes payment of a $250 compliance fee. Again, an employer who adopts a standardized GUST prototype after September 30, 2003, will be required to make the IRS determination letter filing. The charging of the $250 compliance fee should raise some revenue for the U.S. Treasury.

Note that this extension applies only if the plan's GUST remedial amendment deadline ends on or after September 30, 2003, and before January 1, 2004. That is, there is no extension if the employer's plan was an individually designed plan for which the GUST amendment was not adopted on or before the later of: February 28, 2002, or the last day of the plan year beginning on or after January 1, 2001—unless the employer adopted a prototype plan as sponsored by a financial institution which had submitted its GUST revised prototype on or before December 31, 2000, or certified their intent to adopt such a plan.

CWF still strongly recommends that an employer adopts it GUST plan on or before September 30, 2003.

The IRS has also issued Revenue Procedure 2003-44. It describes in detail the Employee Plans Compliance Resolution System (EPCRS), a comprehensive system of correction programs that permits plan sponsors to correct qualification failure in order for a plan to preserve its tax qualified status. An employer who did not timely amend its plan for GUST, or who fails to file, if required, its determination letter application on or before January 31, 2004, will need to use EPCRS.

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Exceptions for the 10% Tax

CWF has prepared the following chart to hopefully make it easier for you to understand the numerous exceptions to the 10% additional tax rule. The general rule is that a recipient of a distribution before age 59½ will owe an additional 10% tax. The law is written to penalize individuals who withdraw funds from an IRA or pension plan and use it for reasons other than retirement. The individual will also include this distribution in his or her gross income and pay tax at the marginal tax rate which applies to him or her.

Observation

1. There is no exception to the 10% tax just because the distribution is on account of a "hardship." The hardship rules may allow a 401(k) participant to receive a distribution, but the person will owe the additional 10% tax.

2. There is no exception to the 10% tax just because the employer terminates the 401(k) or other pension plan.

3. The first-time home buyer exception applies to IRA distributions It does not apply to distributions from 401(k) plans. The 10% tax will be owed if a 401(k) participant takes a distribution from a 401(k) plan to purchase a house.

4. In some situations, a person does NOT want to directly roll over his or her entire 401(k) account. Rather, a person will want to instruct the plan administrator to distribute a certain amount of cash and to directly roll over the remainder.

For example, one of your customers, Thomas Juergens, is going through a divorce. His wife has a 401(k) plan and the court order rules he is entitled to $30,000 of her 401(k). He is entitled to have direct rollover to an IRA, if he so chooses. Thomas would like to receive $5,000 in cash to pay off some debts. He would like to roll over the remainder.

Thomas has two options. Option #1 is to directly roll over the $30,000 to an IRA and then withdraw the $5,000 from the IRA. Since the withdrawal has come from the IRA, he will owe the 10% additional tax, or $500 ($5,000 x 10%). Option #2 is to instruct the 401(k) plan to pay him $5,000 (less 20% withholding) and to directly roll over the remaining $25,000. Since the distribution is from the 401(k) plan, he will NOT owe the additional 10% tax. Obviously, in this situation, Thomas would want to use Option #2 if he understood the rules. A similar type situation exists when a person is a participant in a pension plan and separates from service after attaining age 55. Any fund withdrawn from the pension plan will escape the 10% tax whereas if the participant directly rolls over all of his or her funds to an IRA and then takes a distribution he or she will owe the 10% additional tax.

5. Every distribution to a beneficiary escapes the 10% additional tax. A spouse who has elected to treat a deceased spouse's IRA as his or her own IRA or has rolled over the deceased spouse's QP balance to an IRA is no longer a "beneficiary." Any distribution from his or her IRA will be asses the 10% additional tax unless "another" exception would apply.

Description of Distribution Reason	Does Exception Apply for an IRA Distribution	Does Exception Apply for a Distribution from a QRP
1. Made to IRA accountholder or QRP participant who is age 59½ or older at the time of distribution.	Yes	Yes
2. Made to a beneficiary or estate on account of the IRA accountholder's or QRP participant's death.	Yes	Yes
3. Made to IRA accountholder or QRP participant on account of disability.	Yes	Yes
4. Due to an IRS levy	Yes	Yes
5. Made for the IRA accountholder or QRP participant's (and dependent's) — not in excess of unreimbursed medical expenses that are more than 75% of the person's AGI.	Yes	Yes
6. Made as part of a series of substantially equal period payments over your life or life expectancy.	Yes	Yes*
* If from a QRP, the participant must separate from service with their employer before the payouts begin for this exception to apply.		
7. Distributions made to the participant after he or she separated from service with the employer, if the separation occurred in or after the year he or she reached age 55.	No	Yes
8. Distributions made to an alternate payee under a qualified domestic relations order.	No	Yes
9. Distributions of dividends from employee stock ownership plans.	No	Yes
10. Distributions equal to or less than the IRA accountholder (and certain family members) qualified higher education expenses.	Yes	No
11. Distributions made to pay for a first-time home purchase.	Yes	No
12. Distributions made to pay health insurance premiums if you are unemployed.	Yes	No
13. Distributions converted to a Roth IRA.	Yes	No

IRS Grants Waiver of 60-day Rollover Requirement

For distributions occurring on or after January 1, 2002, EGTRRA authorized the IRS to waive the 60-day requirement in cases where the taxpayer(s) have suffered a hardship would be against equity and conscience to not do so. In January of 2003, the IRS issued additional guidance when it issued Rev. Proc. 2003-16.

The IRS in PLR 200327064 Recently Granted a Waiver

Facts/Situation. John Doe maintained a number of IRAs. He and his wife hired a person (M) to assist and manage with their investments. In 2002, this person misappropriated funds from three IRAs (X, Y, and Z). Unknown to John Doe, M had instructed three financial institutions to distribute cash from X, Y, and Z and mail statements to an address unknown to John Doe. The distribution from IRA X took place in January of 2002. The distribution from IRA Y took place in December of 2002. There were multiple distributions from IRA Z from January to August of 2002. The total amount distributed from all three IRAs was the amount of $B. In late 2002, John Doe figured out what M had done. The 60-day period had expired with respect to the distributions from all three IRAs. John Doe submitted a request to the IRS to have the IRS waive the 60-day requirement with respect to the amount B. John Doe certified that the once-per-year rollover rule would not be violated if these distributions were allowed to be rolled over.

The IRS ruled that the misappropriation of the IRAs funds was a hardship, that it was beyond the reasonable control of John Doe to comply with the 60-day requirement, and failing to grant the waiver would be against equity and good conscience. The IRS gave John Doe 30 days from the date of the letter ruling to complete the rollover of the amount B to one or more IRAs.

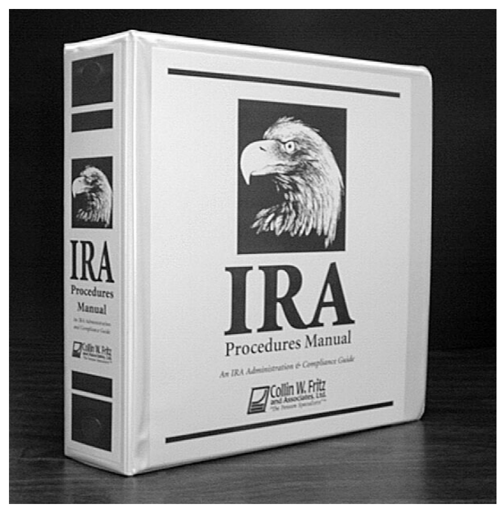
Reminder of Special RMD Rule

The RMD regulation sets forth the rule that if an entity other than a person is designated as one of many beneficiaries, then the RMD rules must be applied as if the IRA accountholder had not designated a beneficiary. The effect of this rule is that if the accountholder dies before his or her required beginning date, the five-year rule will apply to the RMD distributions to be made for the year after the year the accountholder died unless the separate accounting rules apply. If the accountholder dies after the accountholder's required beginning date, then the life distribution rule will be the one-year reduction rule as based on the age of the accountholder unless the separate accounting rules apply.

2003 IRA Procedures Manual Available for Purchase

The 2003 version of CWF's IRA Procedures Manual is now available. The book provides a comprehensive explanation to traditional IRAs and Roth IRAs from the perspective of the financial institution. The duties of the financial institution are explained as are the forms and procedures which may be used to accomplish the duties. The IRS may impose very hefty penalties if a financial institution fails to perform its duties correctly. The 2003 Manual contains explanations of the latest law changes, the tax benefits, the 2003 version of Forms 1099-R and 5498 and administrative forms revised for the EGTRRA law changes.

The 2003 version of the IRA Procedures Manual is available for $115 from Collin W. Fritz and Associates, Ltd. Call 1-800-346-3961. Discounts available for multiple copies.



2003 CESA Procedures Manual Available for Purchase

The IRS has recently issued a new Form 1099-Q and Form 5498-ESA for the Coverdell ESAs. This was the final change in the various IRS forms and publications showing that the CESA is a tax-preferred account, but it is not a type of IRA. This book is a comprehensive explanation of CESAs. The duties of the financial institution are explained as are the forms and procedures which may be used to accomplish these tasks.

The 2003 version of the Coverdell Education Savings Accounts Procedures Manual is available for $59 from Collin W. Fritz and Associates, Ltd. Call 1-800-346-3961. Discounts available for multiple copies.