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ALSO IN THIS ISSUE –

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

Effect of the Federal Insurance Reform Act on the Reports of Condition & Income (Call Report)

In May, the Department of the Treasury and the FDIC issued the changes a financial institution will need to make to its Call Report, to incorporate the new $250,000 FDIC insurance limit for retirement accounts.

As you are aware, banks file Call Report data with the agencies each quarter, for the agencies' use in monitoring the condition, performance, and risk profile of reporting banks and the industry as a whole. In addition, Call Report data provides the most current statistical data available for evaluating bank corporate applications such as mergers, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. Call Report data is also used to calculate all banks' deposit insurance and Financial Corporation assessments and national banks' semiannual assessment fees.

The Federal Deposit Insurance Reform Act of 2005, enacted in February of 2006, increased the deposit insurance limit for certain retirement plan deposit accounts from $100,000 to $250,000. The basic insurance limit for other depositors — individuals, joint accountholders, businesses, government entities, and trusts — remains at $100,000. The FDIC issued an interim rule to

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Wealthy Individuals and IRA Contributions

In years before 2006, there were reasons why wealthy individuals did not make IRA contributions. That has all changed with the enactment, in 2006, of the "Tax Increase Prevention and Reconciliation Act of 2005," which authorizes anyone with a traditional IRA to convert the funds in their traditional IRA to a Roth IRA commencing in 2010.

Under current law, a wealthy individual is ineligible to make a Roth IRA contribution. This rule has not changed. Thus, a married person, where the couple's modified adjusted gross income (MAGI) exceeds $160,000, is ineligible to make a Roth IRA contribution. A single person, whose MAGI exceeds $110,000 is ineligible to make a Roth IRA contribution. However, there is nothing which prevents these wealthy individuals (assuming they have compensation or earned income and are not age 70½ or older) from making a nondeductible traditional IRA contribution for the years 2006 - 2010 (and subsequent years) and then, in 2010 (or a subsequent year) converting these traditional IRA funds to be Roth IRA funds. Again, if certain rules are met, all income earned by a Roth IRA is tax free.

Refer to Page 3 and read the article, "Benefits of the Nondeductible IRA Contributions" which discusses this subject in more detail. ◆

Effect of the Federal Insurance Reform Act,
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implement this increase in coverage and other provisions of the Reform Act pertaining to deposit insurance coverage effective April 1, 2006.

"Retirement deposit accounts" that are eligible for $250,000 in deposit insurance coverage are deposits made in connection with the following types of retirement plans: Individual Retirement Accounts (IRAs), including traditional and Roth IRAs; Simplified Employee Pension (SEP) plans; SIMPLE-IRAs; Section 457 deferred compensation plans; and self-directed Keogh (HR 10) plans; and self-directed defined contribution plans, which are primarily 401(k) plan accounts. The term "self-directed" means that the plan participants have the right to direct how their funds are invested, including the ability to direct that the funds be deposited at an FDIC-insured institution. Retirement deposit accounts exclude Coverdell Education Savings Accounts, formerly known as Education IRAs.

At present, all banks report the number and amount of deposit accounts of (a) $100,000 or less and (b) more than $100,000 in Call Report Schedule RC-O, memorandum items 1.a.(1) through 1.b.(2). This information provides the basis for calculating "simple estimates" of the amount of insured and uninsured deposits, and is the only information reported by individual banks with less than $1 billion in total assets pertaining to their estimated uninsured deposits. In 2003, the Office of Management and Budget (OMB) approved a revision to the Call Report information collection pursuant to the Paperwork Reduction Act that provided "for the Memorandum items on the number and amount of deposit accounts by size of account in the insurance assessments schedule (Schedule RC-O) the dollar amount for the size of an account represents the deposit insurance in effect on the report date." This action was taken to ensure that the reporting on the number and amount of deposit accounts in Schedule RC-O, Memorandum item 1, could be changed automatically as a function of the deposit insurance limits in effect on any particular quarter-end Call Report date.

Therefore, in response to the change in deposit insurance coverage for "retirement deposit accounts," which creates a different level of coverage than for all other deposit accounts, the agencies are adding new Memorandum items 1.c.(1) through 1.d.(2) to Call Report Schedule RC-O, effective June 30, 2006. As revised, Memorandum item 1 (including its subitems) would be as follows:

1. Total deposits (in domestic offices) of the bank (and in insured branches in Puerto Rico and U.S. territories and possession)
   a. Deposit accounts (excluding retirement accounts) of $100,000 or less:
      (1) Amount of deposit accounts (excluding retirement accounts) of $100,000 or less
      (2) Number of deposit accounts (excluding retirement accounts) of $100,000 or less (to be completed for the June report only)
   b. Deposit accounts (excluding retirement accounts) of more than $100,000:
      (1) Amount of deposit accounts (excluding retirement accounts) of more than $100,000
      (2) Number of deposit accounts (excluding retirement accounts) of more than $100,000
   c. Retirement deposit accounts of $250,000 or less:
      (1) Amount of retirement deposit accounts of $250,000 or less
      (2) Number of retirement deposit accounts of $250,000 or less (to be completed for the June report only)
   d. Retirement deposit accounts of more than $250,000:
      (1) Amount of retirement deposit accounts of more than $250,000
      (2) Number of retirement deposit accounts of more than $250,000

In addition, banks with $1 billion or more in total assets (in general, as of June 30 of the previous year) disclose the estimated amount of their uninsured deposits in Schedule RC-O, Memorandum item 2. With the increase in the deposit insurance coverage on retirement deposit accounts, the instructions for Memorandum item 2 are being revised to state that a bank's estimate of its uninsured deposits should reflect the deposit insurance limits in effect for retirement deposit accounts and other deposit accounts on the report date, which are $250,000 and $100,000 respectively.

The Reform Act also provides for the merger of the two deposit insurance funds administered by the FDIC, the Bank Insurance Fund and the Savings Association Insurance Fund. As a result, banks with "Oakar deposits" no longer need to report information on purchases and sales of deposits during the quarter in Schedule RC-O, items 8.a.(2), and 8.b. These items are being deleted from the Call Report.

The preceding reporting changes will take effect in the Call Report for June 30, 2006. For this June 30 report date only, banks may provide reasonable estimates for any new or revised item for which the requested information is not readily available.

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After banks make any necessary changes to their systems and records, the agencies estimate that these deposit-related reporting changes will produce an average net increase of .5 hours per bank per year in the ongoing reporting burden of the Call Report.

The agencies will monitor the impact of the new deposit insurance limits on bank practices and may propose additional revisions to the Call Report in the future to address supervisory or other public policy concerns resulting from any changes in bank practices. ◆

New Benefits of Nondeductible IRA Contributions

We at CWF believe there will be increased interest in nondeductible IRA contributions, once individuals understand the benefits of making such contributions. Your institution will want your customers to be informed of these benefits, as nondeductible contributions can result in increased long-term deposits for your institution.

To understand why nondeductible contributions to a traditional IRA are desirable, you first need to understand that in 2010, the conversion rule will be changing. The current rule is that in order to convert a traditional IRA to a Roth IRA, an individual must have adjusted gross income of $100,000 or less, and, if married, must file a joint return. These two requirements will be abolished as of January 1, 2010, thus making it possible for individuals with adjusted gross income of greater than $100,000 to convert any amount of traditional IRA funds to a Roth IRA.

You also need to understand that even if an individual's income exceeds the current income limitations to be allowed to make a deductible traditional or Roth IRA contribution, they are still eligible to make a nondeductible contribution to a traditional IRA up to the applicable limit for that year, according to their age.

Why would it be beneficial to make nondeductible contributions to a traditional IRA now? The answer is that in 2010, whatever funds are contributed as nondeductible contributions to a traditional IRA from 2006 - 2009 (as well as any other prior contributions) will be able to be converted to a Roth IRA in 2010, where interest will be allowed to accumulate tax free. Because the individual who has made nondeductible contributions to an IRA received no tax benefit for the contributions, only the interest earned on the nondeductible contributions will be taxable when the funds are converted to a Roth IRA. This can be an important tax-planning tool for those whose income exceed current limits for contributing to either type of IRA.

Example: Lance and Carrie, both age 39, have combined earned income of $225,000 per year. Because of their high income, they are not permitted to make a Roth contribution or a deductible traditional IRA contribution. However, as long as they are not age 70½ or older, they are eligible to make a nondeductible traditional IRA contribution up to the allowed amount for the applicable year. They decide to each establish a traditional IRA in 2006, and each make the maximum allowed contribution as a nondeductible contribution for years 2006 - 2009. In 2010, because the $100,000 conversion income limit no longer applies, they decide to convert their traditional IRAs to Roth IRAs. Because they have received no tax deduction for their nondeductible contributions, they will only have to pay tax on the earnings of the nondeductible contributions. In the Roth IRA, their funds continue to grow tax free, and will never be taxed when qualified distributions are taken.

CWF believes financial institutions should be marketing the benefits of nondeductible contributions to traditional IRAs now, so that when the conversion rule is changed in 2010, your customers can receive the maximum benefit of this new rule. We are in the process of creating a lobby brochure to be used to inform your customers of these benefits. And remember — your institution is not responsible to determine whether or not an IRA contribution is deductible or nondeductible.

Customers who make nondeductible IRA contributions will need to keep track of them on Form 8606, in order to show why these funds should not be subject to tax when distributed.

It must be noted that it is possible that a new tax law could be enacted prior to 2010, or after 2010, changing this rule. ◆

When Is More Than One Rollover Per Year Allowed?

Individual Retirement Accounts (IRAs) and employer sponsored Qualified Retirement Plans (QRPs) are subject to a lot of the same or similar rules and regulations. For instance, taxation and penalties are similar. Required minimum distribution regulations are also similar.

One procedure, however, that is frequently confused between the two has to do with the rollover rules. A distribution taken from an IRA or a QRP can be rolled over to an eligible retirement plan (ERP) within 60 days of the distribution. The part of the rollover rules that is often confused has to do with the one-per-year limitation. This only applies to IRAs and applies to them on a per-IRA basis. The one-per-year rule does not apply to any QRP distribution. Examples are in order.

Example 1: Mary has traditional IRAs at Custodian 1, Custodian 2, and Custodian 3. Mary can take a distribution from each of the IRAs and roll them over to any one of the existing IRAs or any new one she wants to establish ... all in the same 365-day period. Because she has three separate IRA plan agreements, each IRA is allowed to have a distribution rolled over once every year.

Example 2: Mary has a Roth IRA at Custodian 2, which has three separate investments, like Certificates of Deposit, in it. Mary takes a distribution from each of the investments, at different times. This is considered to be three distributions from one IRA. Therefore, Mary is allowed to roll over just one of the distributions, even if all three distributions were taken within 60 days of each other. Only one IRA distribution from a single IRA can be rolled over each year.

Example 3: Mary was a participant in her employer's 401(k) plan. Upon changing jobs, Mary asked for a direct rollover of $40,000 of her $75,000 balance to her traditional IRA at Custodian 1. Both are allowable, even if the IRA had received an IRA or QRP rollover from another source. There is no one-per-year rule for QRP distributions. Many times it takes more than one distribution to completely liquidate the QRP. The QRP assets could be in stocks, bonds, mutual funds, or even real estate. The funds could be received by the IRA custodian at various times, or the QRP account owner could be requesting them at different times. The situation does not matter. The one-rollover-per-year rule does not apply to QRP distributions.

While it is still imperative to have IRA accountholders verify the validity of the rollover, using a form like CWF's IRA #65, Certification for Rollovers or Direct Rollovers, IRA custodians/trustees need to be aware of this major difference in the IRA and QRP rollover rules. ◆

Debit Cards and HSAs — Permissible or Not?

In IRS Notice 2004-2, the IRS authorizes the use of debit cards for HSAs, but there is no discussion of their use. As CWF understands IRS rules and regulations, if the funds in an IRA, pension plan, or HSA are readily available to an individual, any funds withdrawn are considered to be a distribution, and would normally be taxable. Obviously, the IRS knew, when authorizing withdrawals from HSAs with a debit card, that there would be many distributions, and they have made an exception to the "taxable" rule for such distributions used to pay qualified medical expenses.

However, a problem arises when an HSA account owner overdraws the account. CWF believes it is a prohibited transaction (PT) for the bank to provide any type of overdraft protection, because the bank would, in essence, be providing a loan to the HSA and/or HSA account owner. Unless the IRS grants an exception to allow some type of overdraft protection, which, to CWF's knowledge they have not, we believe the HSA custodian will have to inform HSA account owners of the consequences of overdrawing their account — the overdraft will not be paid, because such action would constitute a PT (because the HSA custodian may not make a loan to an HSA), with the result that the entire account balance would be considered distributed and taxable to the individual in the year of such deemed loan. It would seem retailers should have the ability, before accepting an HSA debit card, to check the balance in the account. At a minimum, a retailer accepting a debit card expects that payment is assured. The IRS needs to provide guidance on this issue.

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Debit Cards and HSAs — Permissible or Not?, Continued from page 4

Banks have had individuals ask why they can't pay a fee to have overdraft protection. The answer is, "Because the IRS has not authorized such action."

We have also heard of IRA custodians allowing debit cards for IRAs. Because IRA funds are not normally available unless the accountholder completes the proper paperwork, and the bank withholds 10% of the amount of any distribution for federal tax purposes, CWF believes that even the providing of a debit card for IRAs is a PT, even if the card isn't used. CWF believes that any institution using a debit card as a means of IRA distribution is putting the IRA account at risk of having the IRS declare such action a PT and subject to the penalty as mentioned above — the entire account being deemed distributed and taxable to the accountholder in the year the PT took place. ◆

When Must a 5498-SA Be Prepared?

HSA custodians often are not certain who is to receive a Form 5498-SA. We will discuss various situations in this article concerning this issue.

Situation #1. An HSA account owner takes a total distribution of his HSA account balance in 2005, and has made no reportable 2005 contributions. Is the IRA custodian required to prepare a 5498 for this individual? The answer is, "No." No 5498-SA is required in this situation, as there are no contributions to report, and there is no fair market value as of December 31 to report.

From the 2005 Form 5498-SA Instructions: ***Total Distribution, no contributions.*** *Generally, if a total distribution was made from an HSA or Archer MSA during the year and no contributions were made for that year, you need not file Form 5498-SA nor furnish a statement to the participant to reflect that the FMV on December 31 was zero.*

Situation #2. An HSA account owner makes the maximum contribution to the HSA for 2005, and, prior to 12/31/05, takes a total distribution of the account balance. Is the HSA custodian required to prepare a 5498-SA for this individual? The answer is, "Yes." Even though the account balance is zero (0) as of 12/31/05, the contribution made in 2005 must still be reported. Therefore, a Form 5498-SA must be prepared.

Situation #3. An HSA account owner dies during 2005. His wife is his sole beneficiary. Is the IRA custodian required to prepare a 5498-SA? The rule is that upon the death of the HSA account owner, the HSA becomes the HSA of the sole spouse beneficiary. Will the HSA custodian be required to prepare one or two Forms 5498-SA? There will need to be one prepared for the decedent and one for the surviving spouse. It is assumed that the surviving spouse does not close the HSA. Even if the decedent made no contributions in the year of death, a 5498-SA must still be prepared in the name of the decedent. Such surviving spouse will receive a 5498-SA as the new account owner unless he or she would take a total distribution.

From the 2005 Form 5498-SA Instructions: ***Death of Account Holder.*** *In the year an HSA, Archer MSA, or MA MSA owner dies, generally you must file a Form 5498-SA and furnish a statement for the decedent. If the beneficiary is the spouse: The spouse becomes the account holder of the HSA or Archer MSA.*

Situation #4. An HSA account owner dies during 2005. There is no spouse beneficiary. Is the IRA custodian required to prepare a 5498-SA? The rule is that, if there is no spouse beneficiary, or if there are nonspouse beneficiaries, the HSA ceases to be an HSA and is considered distributed and taxable to the named beneficiary as of the date of the account owner's death. Consequently, no Form 5498-SA is to be prepared for a nonspouse beneficiary, however, the final 5498-SA in the name of the decedent must still be prepared, as discussed under Situation #3.

Are January statements required for HSAs?

As all IRA custodians are aware, for IRAs, a January statement must be furnished to the accountholder by 1/31 of each year. A January statement is NOT required for HSAs. The HSA custodian may furnish a January statement as a customer service (i.e. it will be helpful for tax purposes), but it is not a requirement.

From the 2005 Form 5498-SA Instructions: ***Statements to participants.*** *If you are required to file Form 5498-SA, you must provide a statement to the participant (generally Copy B) by May 31, 2006. You may, but you are not required to provide participants with a statement of the December 31, 2005, FMV of the participant's account by January 31, 2006.* ◆

Illustration of When it May Be Best to Not "Treat as Own"

Situation. Dan (age 67) and Joan (age 73) each have an IRA for which the other is the sole beneficiary. Dan dies on March 10, 2005, before his required beginning date; his date of birth was 4/12/39. Joan is already in distribution concerning her IRA. What choices does Joan have with respect to Dan's IRA?

She has three choices:

1. Use the 5-year rule
2. Use the life-distribution rule
3. Treat it as her own IRA

Under the 5-year rule, she will have to take total distribution of the IRA funds by 12/31/2011.

Under the life-distribution rule, distribution must commence over the Joan's life expectancy in the year Dan would have attained age 70½. He would have attained age 70½ on 10/12/2009. Therefore, Joan would have to commence distribution by 12/31/09, calculated using her single life expectancy as determined from the Single Life-Expectancy Table, recalculated each year. Obviously, the 5-year rule would be a better choice than the life distribution rule for Joan, because distribution would not start until two years later than under the life-distribution rule.

Joan also has the right (her third option) to treat the inherited IRA as her own. She can make this election anywhere between March 10, 2005, through December 31, 2011, because the IRS rules allow this election at anytime even if the spouse beneficiary previously elected the 5-year rule or the life-distribution rule. This right to treat a deceased spouse's IRA as her own IRA is a very valuable planning tool.

Most likely she will want to wait to treat this IRA as her own. By waiting, she is not required to take a distribution and pay taxes on it.

If she does treat the inherited IRA as her own, will her RMD for 2006 need to be recalculated? If Joan treats the IRA as her own in July of 2006, the RMD for her own IRA would already have been calculated using her 12/31/05 balance. Because, as sole beneficiary, if she desired, she would be allowed to withdraw the entire amount in Dan's IRA in 2006, and roll it over to her own IRA without her 2006 RMD amount being recalculated, CWF believes treating the IRA as her own in 2006 should have the same result — the RMD should not have to be recalculated. However, the law is unclear concerning this situation.

The difference, if Joan would be required to recalculate her 2006 RMD and include Dan's IRA, may be substantial in some situations.

Example: If Joan had a balance in her IRA of $30,000 as of 12/31/05, her 2006 RMD would be $30,000/24.7, which equals $1,214,57. If Dan's inherited IRA had $60,000 as of 12/31/05, and she was required to include this amount in her 2006 RMD calculation, her 2006 RMD would be $90,000/24.7, which equals $3,643.72.

Joan should discuss with her tax advisor whether or not she should wait to treat Dan's IRA as her own. By waiting, her RMD for the next few years will not increase substantially as it will if she treats his IRA as her own. She can wait until 2011 to treat his IRA as her own. She should be aware that should she die before she treats it as her own, her beneficiaries will not be able to stretch out the distributions as long as they could have had she treated it as her own. ◆

Extensions for People Impacted by Hurricane Katrina

(From IRS TAX TIPS 2006-75 and Notice 2006-56)

Individuals and businesses located in specific counties in the Gulf Coast impacted by Hurricane Katrina are automatically eligible for extra time to file their federal income tax returns and pay taxes, while taxpayers in other areas may receive the extension by self-identification.

For taxpayers impacted by Hurricane Katrina, living in specific counties, 2004 tax returns and payments with an original or extended due date on or after August 29, 2005, and 2005 tax returns and payments due before August 28, 2006, are all now due by October 16, 2006.

Taxpayers in three Mississippi counties and seven Louisiana parishes qualify to receive this extension

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Extensions for People Impacted by Hurricane Katrina, Continued from Page 6

automatically. Additionally, taxpayers in 11 Alabama counties, 46 Mississippi counties and 24 Louisiana parishes may self-identify to receive the extensions. Taxpayers who self-identify for extensions receive the same tax relief as taxpayers who qualify for automatic extensions. For a complete list of counties eligible for the extension, see IRS.gov.

Eligible taxpayers may also self-identify themselves for this extension by calling the Disaster Relief Hotline at 1-866-562-5227.

Filing deadlines for taxpayers impacted by Hurricane Rita or Hurricane Wilma were not extended. Taxpayers in those impacted areas needed to file their tax returns by the April 17 deadline. Taxpayers affected by Rita or Wilma could have received additional time to file their returns by filing for an automatic six-month extension. ◆

IRS Expands Taxpayers' Options for Direct Deposit of Refunds

(From IRS News Release — IR 2006-85, May 31, 2006)

Hoping to encourage higher savings and more banking, the Internal Revenue Service announced that it will create a new program to allow taxpayers who use direct deposit to divide their refunds in up to three financial accounts.

The IRS will create a new form, Form 8888, which will give taxpayers greater control over their refunds. Form 8888 will give taxpayers a choice of selecting one, two or three accounts, such as checking, savings, and retirement account. Taxpayers who want all their refund deposited directly into one account can still use the appropriate line on the Form 1040 series.

"Direct deposit is growing rapidly and is now used by over half of all refund filers," said IRA commissioner Mark W. Everson.

More than three-quarters of the nation's taxpayers receive refunds each year. Last year, the average refund was $2,171. The IRS repeatedly has encouraged taxpayers to adjust their payroll withholding to ensure they pay only the taxes required, but some people appear to view payroll withholding as a way to save money.

Last year, the IRS issued 100 million refunds (from 133 million tax returns) amounting to $217.6 billion. Of those figures, 52.7 million refunds amounting to $134.2 billion were deposited directly into bank accounts.

Currently, taxpayers have two options for receiving refunds — a paper check or direct deposit into a checking or savings account. The electronic funds transfer gives taxpayers the safety and speed of direct deposit.

This new program will allow taxpayers to designate (at the time they file) and deposit their refunds with any U.S. financial institution as long as they provide valid routing and account numbers. Taxpayers will attach the new Form 8888 to their returns, indicating the amount for each allocation and providing account information. This ability to split or allocate their direct deposit refunds among multiple accounts will be available to all individual filers, whether they file Forms 1040, 1040A/EZ, 1040NR or any other 1040 series forms.

CWF Observations. This IRS release states that a taxpayer's refund may be deposited into a retirement account, which would encompass an IRA. Taxpayers filing early in the year, who choose to have their refund, or a portion of it, deposited electronically to their IRA account, can expect their refund to be deposited to their IRA well in advance of the April 15 deadline for making IRA contributions, thereby raising the question as to what year the contribution should be applied to. Institutions will need to establish a way for such accountholders to designate the year to which such automatic refund deposit is to be applied. CWF would suggest that the plan agreement be written to state that if the accountholder does not designate, in writing, to the contrary, prior to the receipt of the electronic deposit to their IRA, such contribution will be considered to be made for the current year. ◆

IRS Issues Revised Salary Reduction SEP-IRA Contribution Agreement (Form 5305A-SEP)

The IRS has recently issued an updated version of the Form 5305A-SEP. The revised form states the 2006 limits. This form is an 8-page form. There are instructions for both the sponsoring employer and the employees.

Note that the IRS has said that if you used the March 2002 version, you are not required to use this revised form. Nevertheless, CWF recommends that the 2006 version be used. That is, we recommend you have your business customers with a salary-reduction SEP plan execute the revised form.

It must be remembered that only employers who established a SEP permitting elective deferrals prior to 1997 are authorized by law to continue to maintain such plans after 1996.

The portion of the form to be completed and signed by the employer is set forth below. Go to the IRS web sited, www.irs.gov for a copy of the complete form. ◆

Form **5305A-SEP**
(Rev. June 2006)
Department of the Treasury
Internal Revenue Service

Salary Reduction Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement
(Under section 408(k) of the Internal Revenue Code)

OMB No. 1545-1012
Do not file with the Internal Revenue Service

______________________ amends its salary reduction SEP by adopting the following Model Salary Reduction SEP under Internal Revenue Code section 408(k) and the instructions to this form.
Name of employer

Note: An employer may not establish a salary reduction SEP after 1996.

Article I—Eligibility Requirements (check applicable boxes—see instructions)

Provided the requirements of Article III are met, the employer agrees to permit elective deferrals to be made in each calendar year to the individual retirement accounts or individual retirement annuities (IRAs), established by or for all employees who are at least ________ years old (not to exceed 21 years) and have performed services for the employer in at least ________ years (not to exceed 3 years) of the immediately preceding 5 years. This simplified employee pension (SEP) ☐ includes ☐ **does not** include employees covered under a collective bargaining agreement, ☐ includes ☐ **does not** include certain nonresident aliens, and ☐ includes ☐ **does not** include employees whose total compensation during the year is less than $450*.

Article II—Elective Deferrals (see instructions)

A. Salary Reduction Amount. An eligible employee may elect to have his or her compensation reduced by a specified percentage or amount per pay period, as designated in writing to the employer.

B. Timing of Elective Deferrals. No deferral election may be based on compensation an eligible employee received, or had a right to receive, before execution of the deferral election.

Article III—SEP Requirements (see instructions)

The employer agrees that each employee's elective deferrals to the SEP will be:

A. Based only on the first $220,000* of compensation.

B. Limited annually to the smaller of: **(1)** 25% of compensation; **or (2)** the section 402(g) limit for the tax year.

C. Limited further, under section 415, if the employer makes nonelective contributions to this or another SEP.

D. Paid to the employee's IRA trustee, custodian, or insurance company (for an annuity contract) or, if necessary, an IRA established for an employee by the employer.

E. Made only if at least 50% of the employer's employees eligible to participate elect to have amounts contributed to the SEP. If the 50% requirement is not satisfied as of the end of any calendar year, then all of the elective deferrals made by the employees for that calendar year will be considered "disallowed deferrals" (IRA contributions that are not SEP-IRA contributions).

F. Made only if the employer had 25 or fewer employees eligible to participate at all times during the prior calendar year.

G. Adjusted only if deferrals to this SEP for any calendar year do not meet the "deferral percentage limitation" described on page 3.

Article IV—Excess SEP Contributions (see instructions)

Elective deferrals by a "highly compensated employee" must satisfy the deferral percentage limitation under section 408(k)(6)(A)(iii). Amounts in excess of this limitation will be deemed excess SEP contributions for the affected highly compensated employee or employees.

Article V—Notice Requirements (see instructions)

A. The employer will notify each highly compensated employee, by March 15 following the end of the calendar year to which any excess SEP contributions relate, of the excess SEP contributions to the highly compensated employee's SEP-IRA for the applicable year. The notification will specify the amount of the excess SEP contributions, whether they must be withdrawn, the calendar year in which any excess contributions are includible in income, and must provide an explanation of applicable penalties if the excess contributions that must be withdrawn are not withdrawn on time.

B. The employer will notify each employee who makes an elective deferral to a SEP that, until March 15 after the year of the deferral, any transfer or distribution from that employee's SEP-IRA of SEP contributions (or income on these contributions) attributable to elective deferrals made that year will be includible in income for purposes of sections 72(t) and 408(d)(1).

C. The employer will notify each employee by March 15 of each year of any disallowed deferrals to the employee's SEP-IRA for the preceding calendar year. Such notification will specify the amount of the disallowed deferrals and the calendar year in which those deferrals are includible in income and must provide an explanation of applicable penalties if the disallowed deferrals are not withdrawn on time.

Article VI—Top-Heavy Requirements (see instructions)

A. Unless paragraph B is checked, the employer will satisfy the top-heavy requirements of section 416 by making a minimum contribution each year to the SEP-IRA of each employee eligible to participate in this SEP (other than a key employee as defined in section 416(i)). This contribution, in combination with other nonelective contributions, if any, is equal to the smaller of 3% of each eligible nonkey employee's compensation or a percentage of such compensation equal to the percentage of compensation at which elective (not including catch-up elective deferral contributions) and nonelective contributions are made under this SEP (and any other SEP maintained by the employer) for the year for the key employee for whom such percentage is the highest for the year.

* *This is the amount for 2006. For later years, the limit may be increased for cost-of-living adjustments. Increases, if any, to the amounts in this form that are subject to cost-of-living adjustments (COLAs), are announced by the IRS in a news release, in the Internal Revenue Bulletin, and on the IRS website at* ***www.irs.gov.***

For Paperwork Reduction Act Notice, see page 7. Cat. No. 64362R Form **5305A-SEP** (Rev. 6-2006)

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Article VI—Top-Heavy Requirements *(continued)*

B. ☐ The top-heavy requirements of section 416 will be satisfied through contributions to nonkey employees' SEP-IRAs under this employer's other SEP.

C. To satisfy the minimum contribution requirement under section 416, all nonelective SEP contributions will be taken into account but elective deferrals will not be taken into account.

Article VII—Effective Date (see instructions)

This SEP will be effective upon adoption and establishment of IRAs for all eligible employees.

Employer's signature	Date	Name and title