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# THE Pension Digest

## ALSO IN THIS ISSUE –



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



## IRA Tax Relief for Disaster Situations – Arkansas, Georgia, Illinois, Kentucky, Missouri, and Tennessee

Spring 2008 brought floods and storms. The IRS has issued special relief through various news releases. These news releases are many times updated so it is always important to give the IRS web site a final check. Note that Arkansas had severe storms in February and in March and so there are two separate tax relief situations.

The purpose of this article is to set forth the special tax relief granted to certain IRA accountholders and IRA custodians. Many individuals will be able to make IRA contributions for 2007 after April 15, 2008. Many individuals will have more than 60 days in which to complete their rollover.

There is a general discussion of the special tax relief rules set forth below.

Here is a summary of the special relief:

In Arkansas, the new deadline for completing various tax acts is May 27, 2008. That is, if a prior deadline would have occurred between March 18 and May 27, the new deadline is May 27. Therefore, the ability to make IRA contributions or other pension contributions is now May 27 and is not April 15. Following severe storms, tornadoes and flooding beginning March 18, the federal government has declared Baxter, Benton, Boone, Carroll, Clay, Craighead, Cross, Franklin, Fulton, Green, Independence, Izard, Jackson, Lawrence, Logan, Lonoke, Madison, Marion, Monroe, Pope, Prairie, Pulaski, Randolph, Saline, Scott, Sharp, Stone and Woodruff counties a presidential disaster area qualifying for individual assistance.

In Georgia, the new deadline for completing various tax acts is May 19, 2008. That is, if a prior deadline would have occurred between March 14 and May 19, the new deadline is May 19. Therefore, the ability to make IRA contributions or other pension contributions is now May 19 and is not April 15, Following severe storms and tornadoes beginning March 14, the federal government declared Bartow, Burke, DeKalb, Floyd, Fulton, Jefferson and Polk counties a presidential disaster area qualifying for individual assistance.

In Missouri, the new deadline for completing various tax acts in certain counties is May 19, 2008. That is, if a prior deadline should have occurred between March 17 and May 19, the new deadline is May 19. Therefore, the ability to make IRA contributions or other pension contributions is now May 19 and is not April 15. Following severe storms and flooding beginning March 17, the federal government declared Bollinger, Butler, Calloway, Carter, Christian, Franklin, Gasconade, Cape Giradeau, Green, Howard, Iron, Jasper, Jefferson, Laclede, Madison, Maries, McDonald, Newton, Oregon, Osage, Phelps, Plaski, Reynolds, Ripley, Scott, Shannon, St. Louis, St. Francois, Stoddard, Stone, Taney, Texas, Washington, Wayne and Webster coun-

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**IRA Tax Relief, Continued from page 1**

ties a presidential disaster area qualifying for individual assistance.

In Illinois, the new deadline for completing various tax acts is May 6, 2008. That is, if a prior deadline would have occurred between January 7 and May 6, the new deadline is May 6. Therefore, the ability to make IRA contributions or other pension contributions is now May 6 and is not April 15. Following severe storms, tornadoes, straight-line winds and flooding on Feb. 5, the federal government declared Allen, Bath, Christian, Fayette, Hardin, Harrison, Hart, Hopkins, Meade, Mercer, Monroe, Muhlenberg, Nicholas, Shelby and Spencer counties a presidential disaster area qualifying for individual assistance.

In Tennessee, the new deadline for completing various tax acts is April 7, 2008. That is, if a prior deadline should have occurred between February 5 and April 7, the new deadline is April 7. Following severe storms, tornadoes, straight-line winds and flooding on Feb. 5, the federal government declared Benton, Fayette, Harding, Haywood, Hickman, Houston, Lewis, Macon, Madison, McNairy, Montgomery, Perry, Shelby, Sumner, Tipton, Trousdale, Wayne and Williamson counties a presidential disaster area qualifying for individual assistance.

In Arkansas and Kentucky, the new deadline for completing various tax acts in certain counties is April 7, 2008. That is, if a prior deadline would have occurred between February 5 and April 7, the new deadline is April 7. Following severe storms, tornadoes, and flooding on Feb. 5, the federal government declared Baxter, Conway, Izard, Marion, Pope, Randolph, Sharp, Stone, Union and Van Buren counties in Arkansas and Allen, Bath, Christian, Fayette, Hardin, Harrison, Hart, Hopkins, Meade, Mercer, Monroe, Muhlenberg, Nicholas, Shelby, and Spencer in Kentucky a presidential disaster area qualifying for individual assistance. ◆

## General Discussion of Special Relief Rules and Procedures

The federal tax laws give the IRS broad authority to grant tax relief when the President declares a disaster and FEMA designates an area or areas for assistance. This authority is set forth in Code section 7508A. The IRS has chosen to give special relief on account of the heavy devastation.

The primary relief given by the IRS is to extend the time a taxpayer has to file various tax returns and pay the tax owing. In determining whether the performance of a tax act has been timely, the IRS has the authority to grant extensions of up to one year. The IRS has two designations. Those areas with the most severe damage are designated as an area to receive Individual Assistance. Those areas which did not incur as severe damage are designated as an area to receive Public Assistance. The covered disaster area is comprised of those entitled to receive Individual Assistance and Public Assistance.

What Relief Has the IRS Given to the Affected Taxpayers?

1. There is a postponement until the various dates specified in the prior article for each act listed in regulation section 301.7508A-1(c)(1) and Rev. Proc. 2007-56 for affected tax payers, if the last day to perform the act would otherwise fall between the indicated dates.

   Regulation section 301.7508-1(c)(1)(iii) provides the postponement on rules for making certain IRA and qualified plan contributions, making certain distributions, recharacterizing IRA contributions or making a rollover under section 402(c), 433(a)(4), 403(b)(8), or 408(d)(3). Thus the regulation expressly covers rollover to an IRA. For example, if Jane Doe withdrew $8,000 from her IRA on January 25, 2008, (i.e. just before a storm hit and she resided in one of the Missouri counties), then her 60-day rollover period would normally have been up in March. This special extension rule gives her until the new deadline date of May 19, 2008, to recontribute these funds as a rollover contribution.

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**Special Relief Rules and Procedures, Continued from page 2**

Any act not expressly covered by the Regulation may be covered by Rev. Proc. 2007-56. It is 23 pages in length. It lists many tax acts which are postponed. Some examples.

1. Secs. 408(i) and 6047(c): A trustee or issuer of an individual retirement arrangement (IRA) must provide certain information concerning the IRA to the IRA owner by January 31 following the calendar to which the information relates. In addition, IRA contribution information must be furnished to the owner, and Form 5498 filed with the IRS, by May 31 following the calendar year to which the information relates.

   CWF Observation. These deadlines do not change since these deadlines did not occur during the indicated relief periods.

2. Secs. 401(a)(9), 403(a)(1), 403(b)(10), 408(a)(6), 408(b)(3) and 457(d)(2): The first required minimum distribution from plans subject to the rules in section 401(a)(9) must be made no later than the required beginning date. Subsequent required minimum distributions must be made by the end of each distribution calendar year.

   CWF Observation. An IRA accountholder required to take his or her 2007 RMD by April 1, 2008, will have a new deadline to take such distribution if he or she lived in covered counties in Tennessee, Illinois, Kentucky, or Missouri.

3. Treas. Reg. §§ 301.9100-2(b)-(d): An automatic extension of 6 months from the due date of a return, excluding extensions, is granted to make the regulatory or statutory elections whose due dates are the due date of the return or the due date of the return including extensions (for example, a taxpayer has an automatic 6-month extension to file an application to change a method of accounting under Rev. Proc. 2002-9, provided the taxpayer (a) timely filed its return for the year of election, (b) within that 6-month extension period, takes the required corrective action to file the election in accordance with the statute, regulations, revenue procedure, revenue ruling, notice or announcement permitting the election, and (c) writes at the top of the return, statement of election, or other form "FILED PURSUANT TO section 301.9100-2."

   CWF Observation. This is the special rule which allows excess IRA contributions to be corrected or recharacterized by October 15th. This deadline does not change for these storms.

4. If an individual or employer had a tax extension to make a SEP contribution with respect to the 2007 tax year on or before October 15, 2008, then this deadline does not change.
5. A person set up under a substantially equal periodic payment schedule to receive a distribution during a relief period would have a revised deadline.
6. To avoid the imposition of a 10-percent additional tax on a distribution from an individual retirement arrangement (IRA) for a first-time home purchase, such distribution must be used within 120 days of the distribution to pay qualified acquisition costs or rolled into an IRA. This deadline too could be postponed.

**Who Is Entitled to Receive the Tax Relief?**

The following individuals and entities qualify as affected taxpayers and are entitled to tax relief:

1. An individual whose principal place of residence is located in the covered disaster area;
2. An individual whose principal place of residence is NOT located in the covered disaster area, but whose tax records necessary to meet a filing or payment deadline are located in the covered disaster area;
3. An individual whose principal place of residence is NOT located in the covered disaster area, but whose tax professional or practitioner is located in the covered disaster area;
4. An individual, who while visiting the covered disaster area, was killed as a result of the storm and its aftermath. In this situation, the decedent's estate is considered to be the affected taxpayer. If injured, the individual is the affected taxpayer.
5. Any spouse of an affected taxpayer, if a joint income tax return will be filed for, or on account of, the couple.
6. Any relief worker assisting in the relief activities in the covered disaster area, even though this person is not affiliated with a government or philanthropic organization;

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**Special Relief Rules and Procedures, Continued from page 3**

7. A business entity whose principal place of business is located in the covered disaster area;
8. A business entity whose principal place of business is NOT located in the covered disaster area, but whose tax records necessary to meet a filing or payment deadline are located in the covered disaster area.
9. A business entity whose principal place of business is NOT located in the covered disaster area, but whose tax professional or practitioner is located in the covered disaster area; and
10. Any estate or trust that has tax records necessary to meet a filing or payment deadline in the covered disaster area.

The IRS relief granted with respect to the disaster situations applies to all the counties and parishes listed. The IRS makes clear that FEMA has the authority to add additional counties and parishes which would be eligible for Individual and/or Public Assistance as a result of the wreckage caused by a storm. An IRA custodian should be on watch to see if new counties or parishes are added.

In the counties and parishes designated for Individual Assistance, relief will be granted automatically, but the IRS strongly encourages the taxpayer to mark or highlight their tax returns in such a way as to inform the IRS of the need for relief. The IRS suggests that the taxpayer should identify the storm in red letters on the top of their return or on the top of any other documents as filed with the IRS.

In the counties and parishes designated to receive Public Assistance relief, such relief is not automatically granted to all taxpayers. The IRS will grant the relief if they are notified of the need for relief. Taxpayers will need to mark their tax returns as discussed above.

Affected taxpayers other than those living in counties or parishes entitled to Individual Assistance or Public Assistance may also be eligible for the tax relief. But they, too, do not receive the relief automatically. They, too, must inform the IRS they need the special relief. They do so by filing and marking their tax returns as discussed above.

It is to be noted that an affected taxpayer entitled to relief may be a person located outside the covered disaster area. ◆

# 5498 Reporting for SEP-IRAs

**Summary of Reporting Duties for SEPs**

Form 5498, IRA Contribution Information, must be submitted to the Service by the trustee or issuer of a SEP IRA to report contributions to the SEP IRA under a SEP plan. A separate Form 5498 must be submitted for each SEP IRA.

Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., is used to report distributions from a SEP IRA.

Reporting SEP contributions continues to be an unnecessarily complex problem. The procedure is actually quite logical and easy. The problem is that software has not caught up with the 1996 change. <u>SEP contributions are reported on the IRS Form 5498 based on the calendar year of receipt by the custodian/trustee, not based on the tax year the contribution is for. Said another way, SEP contributions are reported IN the year they are received NOT FOR the year they are received.</u> Even though the custodian/trustee must report the contributions in the year they are received, the employer can deduct the SEP contributions in the proper tax year on their tax returns, as long as the contributions were made correctly and timely. One of the problems seems to be in the limited number of transaction codes and transaction explanations that are available in many IRA reporting systems. The term "Prior-Year Contribution" is much too general and does not get reported the same way for SEPs as it does for traditional and Roth IRAs. If prior-year SEP contributions are made, the amounts in Box 8 will not agree with the amounts the SEP IRA accountholders are expecting; an IRA custodian/trustee may find it beneficial to furnish a written explanation to its SEP accountholders.

The 2007 Form 5498 boxes to be used in reporting SEP contributions are the following:

**Box 1** **IRA Contributions —** An individual may make his or her regular contribution for the 2007 year between January 1, 2007, and April 15, 2008, to the same IRA to which the employer's SEP contribution is made. Because the making of the SEP contribution results in the

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## Warning – Verify the IRA Type

In 2002 Mary Cole established a traditional IRA. She had made contributions for 2004 and 2005. On April 10, 2007, Mary Johnson came in to your institution and made an IRA contribution for tax year 2006. She completed a contribution form to indicate it was to be a Roth IRA contribution. The IRA custodian has entered this contribution on its computer system as a Roth IRA contribution. Mary completed her tax return to reflect her contribution as a Roth IRa contribution. No Roth IRA plan agreement has been executed by Mary and the financial institution.

There are serious problems when there is an error with respect to the type of the IRA contribution being made. Mary is not going to be happy to learn that she does not have a Roth IRA notwithstanding her attempt to make a Roth IRA contribution. Income she expected to be tax free, will not be tax free. She may not learn or realize this fact for 10, 15 or 20 years. If her contribution did not qualify as a Roth IRA contribution, would it get treated as being a traditional IRA contribution? Will the bank need to change all of its incorrect 5498 reporting? As with many tax subjects, the IRS has not yet issued any guidance as to how the IRS would view such errors, if such errors are correctable. and if so, how the error would be corrected.

IRA personnel must be trained to make sure a determination is made that the customer is eligible (has the proper IRA plan agreement) to make the "type" (traditional or Roth) of contribution he or she is making. ◆

## The Coming Conversion Revolution

In 2010, every traditional IRA accountholder will be eligible to convert funds from his or her traditional IRA to a Roth IRA. In 2008-2009 many individuals are still ineligible to make such a conversion contribution.

As of January 1, 2008, eligible individuals are able to convert funds from their 401(k) plan and other plans directly to a Roth IRA.

The point is – more people will be making larger contributions to Roth IRAs. ◆

## The 5-Year Requirement

**Question: A Roth IRA accountholder establishes a Roth IRA on April 15, 2001 for 2000. He closes the account in 2003. He re-establishes a Roth IRA in 2007. Does his 5-year period start from the first Roth IRA (2000), from the second Roth (2007), or somewhere in between?**

Answer: In the "Distributions" section of the Preamble to the Roth Final Regulations this topic is addressed directly. It states, "…In addition, commentators also asked for clarification regarding whether the 5-taxable year period for determining whether a distribution is a qualified distribution starts over for subsequent Roth IRA contributions if the entire account balance in a Roth IRA is distributed to the Roth IRA owner before he or she makes any other Roth IRA contributions. In such case, the 5-taxable year period does not start over." It goes on to state that the 5-year period does start over if the initial Roth contribution is revoked or recharacterized.

Therefore since an individual has only one 5-year period to fulfill per regulation §1.408A-6, Q&A-2, and the clarification in the Preamble, the 5-year period in the above example ends on December 31, 2004, the end of the fifth tax year. The first day a qualified distribution could be taken is January 1, 2005. Since the accountholder re-established a Roth IRA in 2007, qualified distributions are possible from day one.

Of course to be qualified it must not only satisfy the 5-year holding rule, it must also be for a qualified reason. The only qualified reasons are attaining age 59½, becoming disabled per IRC §72(m)(7), death distributions to a beneficiary, and a first-time home distribution.

## What are the Odds?

Current federal income tax rules do not authorize a person to rollover funds from a Roth IRA to an employer retirement plan.

HOW LONG will this law preventing the rolling over of Roth IRA funds into an employer retirement plan exist?

We at CWF believe it is only a matter of time before the big 401(k) players (i.e. brokerage firms, insurance companies and big banks) will seek to have this law changed. Our guess is 2010 if not earlier. ◆

## IRAs and Divorce

**Question: Can an IRA be distributed and then rolled over to an ex-spouse's IRA under the terms of a court approved divorce decree, or must it be transferred in a custodian/trustee-to-custodian/trustee, IRA-to-IRA transfer for it to be a tax-free transaction?**

Answer: There appears to be some confusion in this and some IRA consultants and IRA publications are apparently indicating this answer to be "Yes," that a distribution and subsequent rollover is allowed. CWF does not believe this is correct.

It is clear that a distribution and rollover is possible from Qualified Retirement Plans. In fact, it is required, it cannot be done as a non-reportable custodian/trustee-to-custodian/trustee transfer. However, IRAs do not fall under the same Qualified Domestic Relations Order rules, as Qualified Retirement Plans, because the anti-alienation rules of Internal Revenue Code (IRC) Section 401(a)(13) do not apply to IRAs. Instead, IRC Section 408(d)(6) is the related cite for IRAs. This Code section clearly indicates a "transfer" is required.

The confusion may stem from a change in IRS procedure/interpretation IN 1994! We will illustrate here.

IRS Publication 590 (For use in preparing 1993 Returns) indicated three ways to move IRA assets under the terms of a divorce decree.

1) "Changing the name on the IRA" – CWF Comments: From an internal audit standpoint this was probably the least desirable for the IRA custodian/trustee. Since there may have been reportable transactions prior to the name change, the original IRA would need to remain titled in the original owner's name, and this would only be possible if all of the IRA assets were being moved. Consequently, most internal auditors did not allow such an event, instead requiring a new IRA be set up for receipt of the moved IRA assets.
2) "Making a direct transfer of the IRA assets" – CWF Comments: The IRS clearly indicates this method to be a custodian/trustee-to-custodian/trustee transfer, not a distribution to either (ex)spouses.
3) "Making a rollover of IRA assets" – CWF Comments: Here, the IRS clearly describes a rollover of IRA assets from one (ex)spouse to the other, noting the 60-day requirement applied from the date of the distribution.

One year later, the IRS Publication 590 (For use in preparing 1994 Returns) indicated ONLY TWO METHODS!

1) "Changing the name on the IRA" – See our comments above.
2) "Making a direct transfer of the IRA assets" – See our comments above.

Currently, IRS Publication 590 (For use in preparing 2007 Returns) indicates these same two methods as the only methods to move IRA assets from one (ex)spouse to another on a tax-free basis.

In addition, throughout these years the IRS has reaffirmed this position with many Private Letter Rulings clarifying that distributions are taxable and cannot be rolled over.

Looking at it from the Rollover side of the question, the Code and Regulations describing a distribution eligible rollover does not include a distribution from an (ex)spouse.

So, it seems the answer is clear, and a distribution to or for an (ex)spouse and a subsequent rollover is not allowed. If the divorce decree or notice of legal separation state otherwise, there likely needs to be a change to the court documents. ◆

**5498 Reporting,**
**Continued from page 4**

person being an active participant, the proper MAGI test will need to be used to determine what portion of the contribution, if any, qualifies to be deducted.

**Box 2 Rollover contributions —** If there are any rollovers into the SEP IRA during the period of January 1 - December 31, 2007, the amounts are reported here.

**Box 4 Recharacterizations —** It is possible for a SEP IRA to also have traditional IRA contributions. Therefore it is possible to have a recharacterization in an IRA that has both SEP and traditional IRA contributions. However, SEP contributions cannot be recharacterized.

**Box 5 Fair market value of account —** The December 31, 2007, FMV is reported here. It must agree with the year-end FMV statement sent to the accountholder in January 2008.

**Box 7 IRA SEP —** The IRS instructions indicate to check the IRA box if it is a traditional IRA and to check the SEP box if it is a SEP IRA. The instructions are silent if the account has both traditional and SEP contributions.

**Box 8 SEP Contributions —** Insert the aggregate amount of employer contributions made from January 1 to December 31, 2007, regardless of the tax year for which the contribution(s) were made. Any elective deferral contributions made under a SAR-SEP are deemed to be employer contributions.

**Example 1:** James Smith, self-employed consultant, contributes his 2007 SEP contribution, in the amount of $5,000, on April 15, 2008. This must be reported by the custodian/trustee on the 2008 5498, NOT THE 2007 5498. However, Mr. Smith is allowed to deduct the contribution on his 2007 tax return.

**Example 2:** James Smith, self-employed consultant, contributes his 2007 SEP contribution, in the amount of $4,000, on August 15, 2007. This must be reported by the custodian/trustee on the 2007 5498. ◆

☐ CORRECTED (if checked)

| | | | | |
|---|---|---|---|---|
| TRUSTEE'S or ISSUER'S name, street address, city, state, and ZIP code | | 1 IRA contributions (other than amounts in boxes 2–4 and 8–10) $ <br> 2 Rollover contributions $ | OMB No. 1545-0747 <br> 2007 <br> Form 5498 | **IRA Contribution Information** |
| TRUSTEE'S or ISSUER'S federal identification no. | PARTICIPANT'S social security number | 3 Roth IRA conversion amount $ | 4 Recharacterized contributions $ | **Copy B For Participant** |
| PARTICIPANT'S name <br> Street address (including apt. no.) <br> City, state, and ZIP code | | 5 Fair market value of account $ | 6 Life insurance cost included in box 1 $ | This information is being furnished to the Internal Revenue Service. |
| | | 7 IRA ☐ SEP ☐ SIMPLE ☐ Roth IRA ☐ | | |
| | | 8 SEP contributions $ | 9 SIMPLE contributions $ | |
| Account number (see instructions) | | 10 Roth IRA contributions $ | 11 If checked, required minimum distribution for 2008 ☐ | |

Form 5498 (keep for your records) Department of the Treasury - Internal Revenue Service

## Full Retirement Age—SSA

| Year of Birth | Full Retirement Age |
|---|---|
| 1937 or earlier | **65** |
| 1938 | **65 and 2 months** |
| 1939 | **65 and 4 months** |
| 1940 | **65 and 6 months** |
| 1941 | **65 and 8 months** |
| 1942 | **65 and 10 months** |
| 1943-1954 | **66** |
| 1955 | **66 and 2 months** |
| 1956 | **66 and 4 months** |
| 1957 | **66 and 6 months** |
| 1958 | **66 and 8 months** |
| 1959 | **66 and 10 months** |
| 1960 and later | **67** |

## Other Important 2008 Social Security Information

| **Maximum Social Security Benefit: Worker Retirement at Full Retirement Age in** Note: For retirees born in 1943, full retirement age is 66 and 0 months. | **2007** | **2008** |
|---|---|---|
| | $2,116/mo. (Age 65 and 6 months) | $2,185/mo. (Age 65 and 6 months) |

| **Estimated Average Monthly Social Security Benefits Payable in January 2008:** | **Before 2.3% COLA** | **After 2.3% COLA** |
|---|---|---|
| All Retired Workers | $1,055 | $1,079 |
| Aged Couple, Both Receiving Benefits | $1,722 | $1,761 |
| Widowed Mother and Two Children | $2,192 | $2,243 |
| Aged Widow(er) Alone | $1,017 | $1,041 |
| Disabled Worker, Spouse and One or More Children | $1,652 | $1,690 |
| All Disabled Workers | $ 981 | $1,004 |

| **Retirement Earnings Test Exempt Amounts:** | **2007** | **2008** |
|---|---|---|
| **Under full retirement age** NOTE: One dollar in benefits will be withheld for every $2 in earnings above the limit | $12,960/yr ($1,080/mo) | $13,560/yr ($1,130/mo) |
| **The year an individual reaches full retirement age** NOTE: Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every $3 in earnings above the limit. | $34,440/yr ($2,870/mo) | $36,120/yr ($3,010/mo) |

There is no limit on earnings beginning the month an individual attains full retirement age (66 and 0 months for retirees born in 1943.

## Pension Digest Alert
## Economic Stimulus Payments Clarified
## May 1, 2008

### Economic Stimulus Payments

The recipient of a tax refund may have elected to have their refund amount deposited directly into their IRA, HSA, MSA, CESA or 529 plan. What they may not have realized, is that their Economic Stimulus Payment will be deposited to the same location.

If it was not your customer's intent to have their Economic Stimulus Payment put into one of these special tax preferred accounts, the IRS has made provision for this amount to be removed, without any penalty or tax. We suspect this benevolence is to make it easy for the recipient to propel these dollars back into the economy.

### CWF Comments

All IRA, HSA, MSA and CESA custodians/trustees are to document and report the contributions and distributions as they would have normally. Remember, until they are distributed, they are contributions. It will be the responsibility of the account owner to report the transaction correctly on his or her 2008 federal tax return. State income tax rules must be addressed individually by each state.

The IRS will need to clarify contribution reporting. It seems an individual making the maximum contribution and the stimulus payment that was later removed, would be reported by the custodians/trustees as making an excess contribution.

**If you have any questions, please be sure to call us at 800-346-3961.**

### What goes in...

On April 30, 2008, the IRS, in Announcement 2008-44, clarified how the Economic Stimulus Payments (ESP) are administered by the custodians and trustees if the tax refund payments, including ESP, were directly deposited to traditional IRAs, Roth IRAs, Health Savings Accounts (HSAs), Archer Medical Savings Accounts (MSAs), Coverdell Education Savings Accounts (CESAs), Qualified Tuition Programs (QTPs) or 529 Plans.

The incoming direct deposits are to be recorded by the IRA custodian, HSA custodian, etc. as any other contribution to the particular plan. All eligibility, documentation, and limitation rules for the contributions apply.

### Can easily come out...

Special relief has been given so that an individual may withdraw an amount less than or equal to the amount of the Economic Stimulus Payment that was directly deposited without having to comply with the standard distribution rules. The amount withdrawn will not be subject to regular federal income tax nor to any additional tax or penalty under the Internal Revenue Code. For the purposes of the individual's 2008 Federal tax return, the amount withdrawn will not be considered contributed to or distributed from the account. The withdrawal must be made by the due date of the account owner's 2008 federal tax return including extensions.

The Announcement goes on to state that the account custodians/trustees are to report the deposit and the distribution as they would any other contribution and distribution for the particular account. All regular distribution codes apply.

The IRS states the taxpayer will receive instructions in his or her 2008 Form 1040 Package on how to report the distribution for federal income tax purposes so that no federal tax will be due.

17301 State Highway 371 • P.O. Box 426
Brainerd, Minnesota 56401 800-346-3961 FAX 800-211-0760
web site www.pension-specialists.com • e-mail info@pension-specialists.com