THE Pension Digest

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ALSO IN THIS ISSUE –

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

Proposed IRA and Pension Law Changes Likely to be Enacted in 2010.

The U.S. House of Representatives passed H.R. 4213 and sent it to the U.S. Senate. After making certain amendments, the U.S. Senate on March 10, 2010 passed H.R. 4213 and returned it to the House. The House will be acting on this bill in the near future. Many of the provisions are an extension for one year of tax provisions which expired as of December 31, 2009. This tax bill contains a number of IRA and pension law changes.

1. Extension of Tax Free IRA Charitable Distributions.

   A qualifying IRA accountholder or beneficiary would again be authorized to make qualified charitable IRA distributions/contributions as long as completed by December 31, 2010.

2. Re-define Definition of A Qualified Storm Damage Distribution for Persons in the 2008 Midwestern Disaster Areas (Iowa, Illinois, etc.)

   A qualified storm damage distribution was a distribution received on or after the disaster for the respective Midwestern disaster area and before January 1, 2010. The January 1, 2010 date would change to January 1, 2011. This would give impacted individuals one more year to take advantage of the special tax rules applying to a distribution taken by qualifying individuals in disaster areas. See CWF's November 2008 newsletter explaining these special tax rules - no 10% tax for pre-59½ distributions; 3 year income averaging rule and extended 3 year rollover rule.

3. Participants in Government Section 457(b) Plans Allowed to Make Roth Elective Deferrals Also.

   Since 2007, participants in "amended" 401(k) and 403(b) plans have been authorized to make either standard 401(k) elective deferrals or Designated Roth elective deferrals. For whatever reason, this right was not given to participants in government section 457(b) plans. They will have this right on or after January 1, 2011 assuming their plan is amended to contain such a right.

4. Conversion of Non-Roth 401(k) Funds in 2010 To A Designated Roth 401(k) Account.

   This proposed law change is not an extension, it is a new law. The topic of converting traditional IRA funds into Roth IRA funds is currently a hot IRA topic. Many individuals are doing such conversions. The special 2011/2012 income tax averaging rule will apply unless elected otherwise.

   The lure of tax-free income from a Roth IRA for many years to come is great. Apparently 401(k) participants want to join in a good thing. They too

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would be able to convert their non-Roth funds (not into a Roth IRA), but into a Designated Roth 401(k) account. This assumes that employers will amend their plans to provide for such conversions. One expects many would. The special 2011/2012 taxation rule would apply to these conversions also.

Be aware that for discussion purposes we used the expression 401(k) plans. These new rules would apply to any elective deferral plan. Thus, there new rules apply to 403(b) plans and certain government section 457(b) plans in addition to 401(k) plans. We at CWF may well be biased, but not as many employers sponsoring 401(k) plans have amended their plans to allow participants to make Designated Roth deferrals as we would have expected. This proposed law change, if enacted, may even convince some employers who never changed or amended their profit sharing plan to be a 401(k) profit sharing plan to make such change.

5. 100%–600% Increase in Tax Information Return Penalties

As an IRA custodian/trustee, your institution will be preparing 2010 Form 1099-R's to report IRA and pension distributions. Under the bill as passed by the U.S. Senate, the penalty amounts to be assessed for incorrect information returns would be radically increased for information returns filed on or after January 1, 2011 (i.e. 2010 reporting forms).

Under existing law, the standard penalty is $50 per incorrect information return if not corrected by August 1. The aggregate annual maximum penalty for incorrect returns is $250,000 if the filer has gross receipts of $5,000,000 or more. This $250,000 is reduced to $100,000 if the filer has gross receipts of less than $5,000,000.

As proposed, the standard penalty would increase to be $100 per information return for any incorrect information return not corrected by August 1. The aggregate maximum penalty would increase to $1,500,000 from $250,000 if the filer has gross receipts of $5,000,000 or more. The $1,500,000 would be reduced to $500,000 if the filer has gross receipts of less than $5,000,000. These limits have increased 500%–600%.

Under existing law, if the information return was corrected within 30 days, then the penalty amount is $15.00 per information return rather than $50 per information return. The aggregate maximum penalty is reduced to $75,000 from $250,000 if the filer has gross receipts of $5,000,000 or more. However, if the filer had gross receipts of less than $5,000,000, then the maximum penalty is $25,000.

As proposed, if the information return was corrected within 30 days, then the penalty amount would be increased to $30 per information statement. The aggregate maximum penalty would be increased to $250,000 (from $75,000) if the filer has gross receipts of $5,000,000 or more. However, if the filer had gross receipts of less than $5,000,000, then the maximum penalty is $75,000.

Under existing law, if the information return was not corrected within 30 days, but was corrected by August 1, then the penalty amount is $30 per information return rather than $50 per information return. The aggregate maximum penalty is reduced to $150,000 from $250,000 if the filer has gross receipts of $5,000,000 or more. However, if the filer had gross receipts of less than $5,000,000, then the maximum penalty is $50,000.

As proposed, if the information return was not corrected within 30 days, but was corrected by August 1, then the penalty amount would be increased to $60.00 per information statement from $30 per information return. The aggregate maximum penalty would be increased to $500,000 (from $150,000) if the filer has gross receipts of $5,000,000 or more. However, if the filer had gross receipts of less than $5,000,000, then the maximum penalty is $200,000.

The above penalties are proposed to increase by 100%–600%.

We will inform you when and if this proposed legislation is enacted. The new tax Act would be called the "American Workers, State, And Business Relief Act of 2010." ◆

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Understanding the Use of Reason Code "4" (Death) on the Form 1099-R

Many errors are made by IRA custodians in the use (or misuse) of Code 4 in preparing the 1099-R Form and other administrative reasons. The purpose of this article is to explain when the Code 4 is to be used and when it is not to be used with respect to an inherited traditional IRA.

The IRS summary description for Code 4 is "Death." We believe this summary description would be improved if it was changed to "Beneficiary Distribution". The IRS explanation chart does state that Code 4 is to be used "regardless of the age of the employee/taxpayer to indicate payment to a decedent's beneficiary, including an estate or trust". Many IRA staff never read this explanation.

Code 4 is the only code to be used when a distribution is made to an inheriting beneficiary. Other codes such as 1, 2, 3 or 7 are never used for a distribution to a beneficiary.

Upon the death of the IRA accountholder, his or her IRA becomes an inherited IRA. No further contributions may be made, required distributions must commence by certain deadlines and rolling funds into or out of this inherited IRA is unauthorized for any nonspouse beneficiary. A spouse beneficiary is permitted to roll funds distributed from the deceased spouse's IRA into his or her own IRA. In this case, the distribution to the spouse should be coded as a 4.

Code 4 is NOT to be used when the funds are transferred or moved from the decedent's IRA to the beneficiary's inherited IRA. It does not matter if the beneficiary is a spouse or a nonspouse. These are transfers and are nonreportable. No Form 1099-R is to be prepared. Some people (including a fair number of large IRA software vendors) think the IRS needs or wants to be told via the Form 1099-R that the funds have moved from the decedent's IRA to the beneficiary's inherited IRA. The IRS does not. The Form 1099-R is not used by the IRS to gather information that an IRA accountholder has died. This is done via the Form 5498. There must be a final Form 5498 prepared for the year the IRA accountholder dies.

The required distribution rules apply to an inheriting IRA beneficiary; these rules generally require that a beneficiary start withdrawing funds from the inherited IRA normally by using his or her life expectancy. There are time deadlines. If these are not met, the beneficiary owes the 50% excise tax. The beneficiary will pay income tax at whatever marginal income tax rate applies to him or her. However, he or she will NOT owe the 10% additional tax applying to distributions to a person who is not age 59½ or older. The law recognizes the fact that it would be unfair to charge a beneficiary under age 59½ the 10% tax on required distributions. The reason Code 4 tells the IRS that the 10% tax is not owed with respect to a beneficiary distribution.

A surviving spouse who elects to treat the deceased spouse's IRA as his or her own IRA is no longer an inheriting beneficiary because the IRA is no longer an inherited IRA. It is now the surviving spouse's own IRA as if he or she had made the contributions. Code 4 is not to be used to report distributions from such an IRA. Generally, code 1 or 7 will be used depending upon the age of the surviving spouse.

It is possible that a deceased IRA accountholder had made an excess IRA contribution for the current year prior to his or her death. This excess contribution as adjusted for the earnings or losses will need to be distributed to the beneficiary. The reason code to report the distribution will either be "48" or "4P". The "48" is used if the excess contribution and the withdrawal occur the same year. The "4P" is to be used if the excess contribution is made one year and withdrawn the following year.

More IRA accountholders are dying and more inheriting beneficiaries are nonspouse beneficiaries. A form 1009-R is to be prepared for the nonspouse beneficiary with a reason code 4 only if an actual distribution is made to the beneficiary. No 1099-R should be prepared with a reason code 4 when the IRA funds are moved from the decedent's IRA into the beneficiary's inherited IRA. Correcting 1099-R forms can be time consuming and may cause adverse customer/client relationships. The better administrative approach is to make sure the initial Form 1099-R is prepared correctly or not at all if it should not be prepared. ◆

Inherited IRA Reporting – FMV Statement and Form 5498

We have received a number of consulting calls lately where it became evident in the discussion that the proper reporting for Inherited IRAs is not being done.

IRS Revenue Procedure 89-52, a required procedure since 1989, clearly dictates how an IRA Custodian/Trustee is to report IRAs once the IRA Accountholder has died. The procedure has not changed since 1989, and is required as soon as the IRA Custodian/Trustee knows of the death of the IRA Accountholder! Careful here. Knowledge of death means anywhere in your financial institution. If the checking account department, the loan department, and the safety deposit vault department knew of the death but the IRA department did not, that is a lack of communication, NOT a lack of knowledge!

There are two aspects to complying with this procedure: One for the reporting for the deceased IRA Accountholder; the other for the reporting to the beneficiary.

The most usual comment we hear is "The beneficiary has not come in" or "The beneficiary has not done anything with the IRA." Neither one of these comments has anything to do with your required reporting. The IRS' position is that the IRA becomes an Inherited IRA owned by the beneficiary at the moment of death. And, the IRA Custodian/Trustee must report it accordingly. This applies to all beneficiary situations, spouse or non-spouse.

Reporting for the Deceased IRA Accountholder

For the year of death, there is required reporting for the decedent, whether or not the beneficiaries address the situation, whether or not the account is closed. It is required reporting in all circumstances.

A year-end Fair Market Value (FMV) statement must be produced in the name and Social Security Number (SSN) of the deceased IRA Accountholder. The FMV that is reported is either the FMV as of the date of death, or zero. It is never the actual December 31 FMV unless the IRA Accountholder died on December 31. If the zero balance option is reported, the availability of the FMV on the date of death must be disclosed to the decedent's representative with the FMV statement.

The IRS Form 5498 for the year of death must also be prepared in the name and SSN of the decedent, showing the FMV as was reported in the FMV statement at the end of the year. (All other reports for the decedent for IRA transactions completed before the death are, of course, also reported.)

These are the last reports/statements/forms prepared in the name and SSN of the deceased, whether the beneficiaries address the situation or not. But the responsibilities of the IRA Custodian/Trustee are just beginning because it also has reporting requirements for each Inherited IRA starting with the year of death. It makes no difference that a beneficiary has not contacted the custodian/trustee. The reporting requirements are the financial institution's as soon as it knows of the death.

Reporting for the Inherited IRA/Beneficiary

Beginning in the year of death, the FMV of the Inherited IRA as of December 31 must be reported to each beneficiary. Multiple beneficiaries receive the statement showing their share of the December 31 FMV. This applies for all beneficiaries including spouses, non-spouses, trusts, estates, charities, foundations, etc. It is their Inherited IRA balance and it must be reported separately. It is reported in the name and SSN or TIN of the beneficiary, noted as beneficiary of the decedent. For instance,

ABC Financial Institution for the benefit of Jane Doe as beneficiary of Mary Doe's traditional IRA.

The SSN of the deceased can never be used for reporting to any beneficiary, including estates and trusts. IRS Form 5498 is also required for each beneficiary, reporting the FMV as was reported in their year-end FMV statement.

This reporting procedure for the beneficiary is required for each subsequent year there is a balance in the inherited IRA as of December 31. Of course, distributions to a beneficiary will be reported on form 1099-R.

Common Consulting Call Question

The IRA accountholder died in 2009, the financial institution knew of the death, and the beneficiaries are just coming into the office now, April 2010. The IRA

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is still in the name and SSN of the deceased. What do we do?

IRS Rev. Proc. 89-52 requires that the reporting procedures be complied with. The year-end FMV statements must be corrected and the Form 5498s must be prepared correctly as described above. It was an Inherited IRA in 2009 and must be reported as such, even if the beneficiary is the spouse and the spouse now intends to treat it as his or her own IRA in 2010.

What if the IRA custodian did not know of the IRA Accountholder's death?

Obviously, if you do not know of the death, the reporting can not be done. But it does make a difference when you find out about the death.

If you learn of the death before February 1 of the year after the death, even if your FMV Statements are already sent, this procedure applies. Any FMV Statement already sent would need to be corrected.

If you learn of the death between February 1 and May 31, the FMV Statement does not need to be amended, but likely should be because the Form 5498 procedure as described above must be complied with. So that your Form 5498 and your year end statement balance agree, you likely will want to correct the December 31 FMV.

If you learn of the death after May 31, neither the FMV Statement nor the Form 5498 for the year of death needs to be corrected. However, all future reports and statements must be prepared in a complying fashion. And, the FMV on the date of death must be made available to the decedent's representative.

Conclusion

This is a fairly complicated and administratively heavy procedure and we have heard that some systems do not make it easy to do the mandated reporting correctly. Never the less, it is required. IRS penalties on the financial institution for non-complying reporting can be severe, and can be assessed as far back as the IRS cares to go. You will get little understanding from the IRS for not complying with a 1989 required procedure.

If you have any questions concerning this complicated and required procedure, please contact our Consulting Department. ◆

IRA Custodian/Trustee Reporting Responsibilities

Internal Revenue Code (IRC) §408(i) requires the IRA Custodian/Trustee to prepare certain reports and statements for the IRS and the IRA accountholder or the IRA beneficiary.

The CWF Consulting Hotline has been deluged with calls that turn out to be about improper reporting being done by third-party service-providers. We hear too often, "Well that's not our problem, ABC Services does our reporting for us," or "That's not our problem, ABC Software Services takes care of that."

It is the problem of the IRA Custodian/ Trustee. If an IRA Custodian/Trustee hires or retains a third-party service-provider, it is responsible for the work product of that service-provider. The IRS has the authority to assess penalties for missed and incorrect forms and statements. The IRS will assess these penalties against the IRA Custodian/Trustee and not against the service-provider. The IRS' position has always been that the IRA Custodian/ Trustee is responsible and penalties will be assessed accordingly.

A financial institution may well have a legal claim against the service-provider if errors are made. The contract between the IRA Custodian/Trustee and the service-provider would need to be reviewed. The IRS, in most situations, will not care that the errors are due to the service-provider. A financial institution acting as an IRA Custodian/Trustee must be informed.

The Financial Institution should be sure that IRA Personnel are knowledgeable of how the reports and statements are to be administered. In other words, they should be able to locate the errors before they are sent to the IRA Accountholder/ Beneficiary and/or the IRS.

The first step for the IRA Custodian/ Trustee, is to be sure their IRA Personnel are trained so that the many reporting changes that have occurred for 2009 and 2010 are understood. The second step is to then check to make sure the reports and statements are correctly prepared.

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Another possible step includes having an IRA Compliance Audit. CWF can help in this regard. Remember, the general rule remains it's always better to find any errors BEFORE the IRS does.

The bottom line is a financial institution should NOT assume the reports are correct because a third-party vendor prepared them. If you have any questions about your IRA reports and statements or would like additional information on other solutions, please contact the CWF Consulting Department. ◆

Reminder on 10% Tax

The general IRA and pension rule is that an individual who takes a distribution from his or her IRA or pension plan before attaining age 59½ will owe an additional 10% tax (amount distributed x 10%) unless an exception applies. The individual will also include the distribution amount in his or her income and pay tax at whatever marginal income tax rate applies to him or her for that tax year. Thus, a person under 59½ may owe 10% - 45% (10% + 35%) in federal income taxes.

A person no longer owes the 10% additional tax upon attaining age 59½.

Some people (IRA accountholders and/or IRA staff) mistakenly believe that as long as the person attains age 59½ during the year, that the 10% tax is not owed. This is incorrect. For example, Jane Doe who will attain age 59½ on April 12, 2010, withdraws $17,415 on March 19, 2010, because she believes she does not owe the 10% tax. But she does. She owes the 10% additional tax or $1,742. She will also include the $17,415 in her income and pay tax at whatever marginal tax rate applies to her in 2010.

If Jane Doe had not yet used her once per year rollover right and she had the available cash, she could make a rollover contribution of $17,415 and then take a distribution of $17,415 soon after April 12. By doing this she would no longer owe the 10% additional tax.

Remember, to not owe the 10% additional tax, an individual must have attained age 59½ or older as of time of the distribution. ◆

What's the Deal About Unemployment Compensation?

IRAs have been around 35 tax years. 1975 was the first year for which an individual could make an IRA contribution. Since 1975 there have been two eligibility requirements for making a contribution to a traditional IRA – have taxable compensation and not be 70½ as of December 31.

May a person use his or her unemployment compensation as the basis for making an IRA contribution?

Many individuals either are or were unemployed in 2009/2010. Some of these individuals may wish to make a traditional and/or a Roth IRA contribution based on his or her unemployment compensation. For whatever reason, the IRS has chosen to be silent on this question/subject. The IRS does NOT address the topic on page 8 of Publication 590 (Individual Retirement Arrangements) dealing with what is and what is not compensation for IRA purposes. See the adjacent page. The IRS does not address it in its Tax Topic 418-Unemployment Compensation. The IRS also does not address it on page 29 of Publication 525, Taxable and Nontaxable Income, dealing with unemployment compensation.

In January of 1984 the IRS adopted proposed regulation 1.219(a)-1(b)(3). It states that IRA "compensation does not include unemployment compensation within the meaning of section 85(c)." However, this proposed regulation was adopted when unemployment compensation was not taxable. In 1987 the law was changed so that unemployment compensation became fully taxable. It has been fully taxable from 1987-2008. For 2009, the first $2,400 of unemployment compensation is not taxable, but the remainder is.

We hope the IRS chooses to no longer be silent on the issue. If the IRS wants to adopt the formal position that unemployment compensation does not qualify as compensation it should do so in writing. The IRS can no longer argue that since unemployment compensation is not taxable it cannot be the basis of a traditional IRA or Roth IRA contribution. It may be that the IRS will formally adopt the position that in order to be able to make an IRA contribution an individual must have compensation which is either subject to FICA or SECA taxes. Until the

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What Is Compensation?

Generally, compensation is what you earn from working. For a summary of what compensation does and does not include, see . Compensation includes all of the items discussed next (even if you have more than one type).

Wages, salaries, etc. Wages, salaries, tips, professional fees, bonuses, and other amounts you receive for providing personal services are compensation. The IRS treats as compensation any amount properly shown in box 1 (Wages, tips, other compensation) of Form W-2, Wage and Tax Statement, provided that amount is reduced by any amount properly shown in box 11 (Nonqualified plans). Scholarship and fellowship payments are compensation for IRA purposes only if shown in box 1 of Form W-2.

Commissions. An amount you receive that is a percentage of profits or sales price is compensation.

Self-employment income. If you are self-employed (a sole proprietor or a partner), compensation is the net earnings from your trade or business (provided your personal services are a material income-producing factor) reduced by the total of:

- The deduction for contributions made on your behalf to retirement plans, and
- The deduction allowed for one-half of your self-employment taxes.

Compensation includes earnings from self-employment even if they are not subject to self-employment tax because of your religious beliefs.

Self-employment loss. If you have a net loss from self-employment, do not subtract the loss from your salaries or wages when figuring your total compensation.

Alimony and separate maintenance. For IRA purposes, compensation includes any taxable alimony and separate maintenance payments you receive under a decree of divorce or separate maintenance.

Military differential pay. For IRA purposes, compensation includes military differential pay you receive. Military differential payments are those payments made by some employers to employees who have been called to active duty in the uniformed services for a period of more than 30 days. Beginning in 2009, these payments will be reported in box 1 (Wages, tips, other compensation) of Form W-2.

Nontaxable combat pay. If you were a member of the U.S. Armed Forces, compensation includes any nontaxable combat pay you received. This amount should be reported in box 12 of your 2009 Form W-2 with code Q.

If you received nontaxable combat pay in 2004 or 2005, and the treatment of the combat pay as compensation means that you could contribute more for those years than you already have, you could have made additional contributions to an IRA for 2004 or 2005 by May 28, 2009. The contributions are treated as having been made on the last day of the year you designate. If you have already filed your return for a year for which you make a contribution, you must file Form 1040X, Amended U.S. Individual Income Tax Return, by the latest of:

- 3 years from the date you filed your original return for the year for which you made the contribution,
- 2 years from the date you paid the tax due for the year for which you made the contribution, or
- 1 year from the date on which you made the contribution.

Table 1-1. **Compensation for Purposes of an IRA**

Includes ...	Does not include ...
wages, salaries, etc.	earnings and profits from property.
commissions.	interest and dividend income.
self-employment income.	pension or annuity income.
alimony and separate maintenance.	deferred compensation.
military differential pay.	income from certain partnerships.
nontaxable combat pay.	any amounts you exclude from income.

What Is Not Compensation?

Compensation does not include any of the following items.

- Earnings and profits from property, such as rental income, interest income, and dividend income.
- Pension or annuity income.
- Deferred compensation received (compensation payments postponed from a past year).
- Income from a partnership for which you do not provide services that are a material income-producing factor.
- Any amounts (other than combat pay) you exclude from income, such as foreign earned income and housing costs.

When Can a Traditional IRA Be Set Up?

You can set up a traditional IRA at any time. However, the time for making contributions for any year is limited. See , later.

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IRS sets forth its position in writing, we believe a taxpayer has a supportable argument that he or she may use unemployment compensation to support an IRA contribution. It appears that Turbotax has adopted this position in its tax preparation software. For example, a person who had wages of $2,000, unemployment compensation of $3,000 and other taxable income was permitted to deduct an IRA contribution of $5,000.

In summary, the IRS needs to adopt a position and communicate it. However, we will not be surprised if the IRS does not revise the Publication 590 to furnish written guidance. The IRS knows that by being silent on the subject, most taxpayers and most tax preparers will adopt the conservative approach tax and will not make the IRA contribution. ◆

Administering Contributions to a SEP-IRA

A SEP-IRA is a traditional IRA to which SEP-IRA contributions have been made.

Personnel of IRA custodians/trustees many times have questions about contributions to SEPs. In any SEP-IRA contribution situation, it is very important to understand the type or types of contributions being made.

An employer establishes a SEP plan by executing a SEP plan agreement and each eligible employee establishing a traditional IRA if they don't already have one established. The IRS Model Forms 5305 and 5305-A have been written to authorize SEP-IRA contributions. The following types of contributions may be made to a SEP-IRA:

1. The employer contribution. There can be two types. The first is pursuant to a formula (based on compensation) where the employer contributes a certain amount and then this amount is allocated to the eligible employees. The second type is elective deferral contributions made by the eligible employees pursuant to a SAR-SEP which existed as of December 31, 1996. The maximum amount eligible to be contributed for 2009 is $49,000.
2. All the other types of contributions which can be made to a traditional IRA.
   A. Annual contributions $5,000/$6,000 for 2009.
   B. Rollover Contributions. These could come from a 401(k) plan, other employer sponsored plan, another SEP-IRA or another traditional IRA, or a SIMPLE-IRA.
   C. Transfer Contributions. These could come from another SEP-IRA, another traditional IRA, or a SIMPLE-IRA.
   D. Recharacterized contributions.

An IRA custodian/trustee had called to discuss the following situation. In February of 2009, Jane Client had brought in a check for $2,061 from JMC Consultants, her employer. It was initially thought that this was a rollover contribution. She established an IRA. She invested this $2,061 in Investment #1. In April of 2009, a check in the amount of $60,000 was sent by the JMC Consultants 401(k) to the IRA custodian since she had instructed to have a direct rollover. She instructed that she wanted this $60,000 invested in IRA investment #2. She did not complete another IRA plan agreement.

The contribution of $2,061 was not a rollover contribution. It was an "annual" SEP contribution made by the employer, JMC Consultants. It was a SEP-IRA contribution, probably for 2008. The check was not from a SEP-IRA custodian. The SEP contribution of $2,061 will be reported in box 8 of the 2009 From 5498. It is not reported on the 2008 Form 5498 since the contribution was made in 2009.

The contribution of $60,000 was a direct rollover from a 401(k) plan. It was certainly permissible to add this direct rollover contribution to the existing SEP-IRA. It will also be reported on the 2009 Form 5498 as a rollover contribution in box 2.

When a traditional IRA is a SEP-IRA, the SEP box in box 7 of the Form 5498 is to be checked.

The IRS has given no guidance as to when (or how) a SEP-IRA loses its status of being a SEP-IRA. One would think, that a SEP-IRA will always be a SEP-IRA if that is what the individual wants, but the IRS to the best of our knowledge, has never discussed this question. The individual has the right to transfer a SEP-IRA to a traditional IRA at any time or to do a roll over at any time assuming he or she is otherwise eligible.

All of the standard distribution rules that apply to traditional IRAs also apply to SEP-IRAs. This includes the required distribution rules. ◆