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ALSO IN THIS ISSUE –

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Special Transfer Forms Needed for Inherited IRAs

A nonspouse IRA beneficiary is ineligible to rollover a distribution from an inherited IRA. The only way for a nonspouse beneficiary to move an inherited IRA from one IRA custodian to another IRA custodian is to transfer the inherited IRA.

How is this done? A special transfer form (one designed for an inherited IRA) will need to be used.

IRS guidance on what is need to transfer funds from one traditional IRA to another traditional IRA or Roth IRA to Roth IRA is quite limited. IRS guidance for transferring an inherited IRA is even less. IRS guidance is also lacking regarding what duties, if any, an IRA custodian (current or successor) has with respect to an inheriting beneficiary complying with the beneficiary RMD rules.

An IRA custodian called CWF in March of 2011. The IRA custodian had an inheriting IRA beneficiary wishing to transfer the inherited IRA to another IRA custodian, a brokerage firm. The brokerage firm had sent the IRA custodian a standard IRA transfer form. Following CWF's advice, the IRA custodian notified the individual and the brokerage firm that in order to transfer the inherited IRA funds all three parties would need to execute CWF's inherited IRA transfer form. The brokerage initially took the position that it need not sign this special inherited IRA transfer form. It thought its standard transfer IRA form was sufficient.

Set forth below is CWF's explanation to the IRA custodian as to why it was in the IRA custodian's best interest to require the use of CWF's inherited IRA transfer form.

The transfer of an IRA, including an inherited IRA, is a contractual right. There is no federal tax law mandating that an IRA accountholder or an inheriting IRA beneficiary is entitled to have his or her IRA or inherited IRA transferred. The CWF plan agreement form gives the current IRA custodian, the discretionary authority whether or not the IRA funds will be transferred.

Simply put, if the brokerage firm does not want to have the inherited IRA funds transferred to it, it does not need to sign the form.

Why has CWF written the Inherited IRA Transfer Form as we have?

We are trying to minimize the liability of the institution with respect to the IRS, the individual, and the successor IRA custodian.

The IRS has never defined what is or is not required in a transfer form, let alone one for an inherited IRA. However, the law is clear that every distribution from an IRA must be reported on a Form 1099-R unless the distribution is a transfer distribution. The law is also clear that a nonspouse IRA beneficiary is ineligible to rollover inherited IRA funds.

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Special Transfer Forms, Continued from page 1

Required distribution rules apply to a beneficiary when an IRA accountholder dies. When such required distributions must commence varies depending upon whether the accountholder died before or after his or her required beginning date and whether or not the RMD due for the year of death, if any, had been fully paid to the accountholder prior to death.

A successor IRA custodian must certify that the transferred funds will be contributed to the same type of inherited IRA as the beneficiary had with the originating IRA custodian and that if the inheriting beneficiary had elected or was using a specific inherited RMD method, that method will also be applied by the successor inheriting IRA custodian.

Your institution has two primary concerns.

First, you need to know that the same type of inherited IRA (traditional or Roth) which is at IRA custodian #1 has been established with the successor IRA custodian and the funds will go into such inherited IRA. A serious tax situation would arise if the funds in an inherited IRA with IRA Custodian #1 would go into a "regular" IRA with the successor IRA. This would allow the beneficiary to not take the required beneficiary distributions and avoid paying the related income taxes. The current custodian does not want to have to argue with the successor custodian about whose fault it was ("but you did not make it clear that it was an inherited IRA").

Second, the RMD rule applying to an inheriting beneficiary will either be the life distribution rule or 5-year. The general rule is once the inheriting beneficiary selects the method to be used or it is the only method available, then such method cannot be changed. The current IRA custodian to protect against the successor custodian ever trying to argue, "but you didn't tell us he had elected the 5-year rule and therefore we used the life distribution rule." There will be beneficiaries who elect to use the five year rule, but come to realize that they wish they would have elected the life distribution rule. They may try to find an IRA custodian willing to allow them to start using the life distribution rule rather than the 5 year rule. The tax laws do not permit this.

It may be arguable whether or not the successor custodian needs to certify that the applicable RMD rules will be complied with. I am aware that the IRS does not require an IRA custodian to furnish an RMD notice to an inheriting beneficiary. This IRS RMD notice policy does not negate the requirement set forth in the IRA plan agreement that required distributions must be made.

In summary, CWF's Inherited IRA Transfer Forms have been written in current format to limit or lessen the potential liability of IRA Custodian #1. Since the IRS has not defined what is needed to transfer an inherited IRA, we have done so in such a manner to increase the likelihood that there will be compliance with the federal income tax laws.

Until the IRS furnishes guidance on the rules and procedures applying to the transfer of inherited IRA funds, it is in an IRA custodian's best interest to use a form devoted to transferring an inherited IRA versus a standard IRA transfer form. ◆

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Instruction & Authorization to Transfer Inherited IRA Funds

Instructions — The current custodian/trustee, the inheriting beneficiary and the successor custodian/trustee need to complete the portions of this form that pertain to them. Each of these entities should keep a copy for their records.

Current Custodian/Trustee

Name ____

Address ____

City, State, Zip ______________________________________

Attn: ____

Deceased Accountholder Information (mandatory)

Name ____

Plan No. ____

Date of Death _______________________________________

Date of Birth ____

Required Beginning Date: April 1, ______________ (of the year following the year the deceased accountholder would have attained age 70½)

SSN ____

Successor Custodian/Trustee Information

Name ____

Address ____

City, State, Zip ______________________________________

Attn: ____

Phone (__________) __________________________________

Beneficiary Information

Name ____

Home Address _______________________________________

City, State, Zip ______________________________________

Date of Birth ____

Spouse of Accountholder ☐ Yes ☐ No

SSN ____

Purpose — Inherited IRA accounts are subject to the required minimum distribution requirements found in section 408(a) and (b) of the Internal Revenue Code (IRC) and related regulations. When an IRA accountholder dies, his or her designated beneficiary(ies) inherits the IRA or a portion of the IRA.

The IRC and related regulations do not expressly authorize the transfer of an inherited IRA account from one IRA custodian/trustee to another IRA custodian/trustee. The purpose of this form is to authorize such a transfer if the current IRA custodian/trustee of the existing IRA is provided sufficient certification from the successor IRA custodian/trustee that it understands that the transferred IRA is an inherited IRA, and that applicable required minimum distribution (RMD) rules will be complied with.

This form is not to be used by a spouse beneficiary who elects to treat the deceased accountholder's IRA as his or her own.

Note: The check to the new inherited IRA custodian should be titled as follows: "ABC Bank as custodian for Jane Doe as beneficiary of John Doe's IRA."

Inherited IRA Account Title: ______________________________ (beneficiary) as beneficiary of ____________________________________'s (decedent) IRA

Certification of Current IRA Custodian/Trustee — We hereby certify to the successor custodian/trustee that the deceased accountholder maintained an IRA under Code section 408(a) or (b) and that the beneficiary as identified above was a designated beneficiary of such IRA. We have enclosed a copy of the deceased accountholder's governing IRA plan agreement and governing beneficiary designation, if any. If the deceased IRA accountholder died prior to his required beginning date concerning required minimum distributions, we hereby certify that:

☐ The IRA beneficiary has elected the 5-year rule. Such election is enclosed.

☐ The IRA beneficiary has elected the life-distribution rule. Such election is enclosed.

☐ The IRA beneficiary has made no elections concerning the payout of funds from this inherited IRA as of the date of transfer.

The required distribution for __________ ☐ has or ☐ has not been fully distributed. The amount remaining to be distributed, if any, is $______________.

Authorized Signature of Current Custodian/Trustee:

____ Date:_____________

Beneficiary's Instruction to Current Custodian/Trustee —I instruct you to transfer my inherited IRA funds as referenced here to the successor custodian/trustee as named above. I want all assets as listed below to be transferred pursuant to the following instructions.

☐ Liquidate and transfer all my account assets.

☐ Liquidate and transfer the assets listed at maturity.

Acct #: ________________ Maturity Date: ______________

Acct #: ________________ Maturity Date: ______________

Acct #: ________________ Maturity Date: ______________

☐ Transfers assets "in kind" as listed here:

____

____

____

I understand that I have instructed you to liquidate certain assets, and I am aware of the penalties or losses which will result from this transfer instruction. You are to send a check payable to the successor custodian/trustee. I certify that I have established an inherited IRA with the successor custodian/trustee.

Signature of IRA Beneficiary:

____ Date:_____________

Certification of Successor IRA Custodian/Trustee — We hereby advise the current custodian/trustee that we will accept the transfer of the above referenced beneficiary's inherited IRA assets. We have agreed to act as the successor custodian/trustee and certify that the beneficiary has an inherited IRA with us that meets the requirements of Code section 408(a) or (b) and we certify that the distributions from this inherited IRA will comply with the RMD rules as found in Code section 408 and related regulations.

Authorized Signature of Successor Custodian/Trustee:

____ Date:______________

Instruction & Authorization to Transfer Inherited Roth IRA Funds

Instructions — The current custodian/trustee, the beneficiary and the successor custodian/trustee need to complete the portions of this form that pertain to them. Each of these entities should keep a copy for their records.

Current Custodian/Trustee

Name ____
Address ____
City _________________________ State _____ Zip _________
Attn: ____

Deceased Accountholder Information

Name ____
SSN ____
Plan No. ____
Date of Death _____________________________________
Date of Birth ______________________________________

Successor Custodian/Trustee Information

Name ____
Address ____
City _______________________ State _____ Zip _________
Attn: ____
Phone ____

Beneficiary Information

Name ____
Home Address _____________________________________
City _______________________ State _____ Zip _________
Sole Beneficiary ○ Yes ○ No
Date of Birth ______________________________________
Spouse of Accountholder ○ Yes ○ No
SSN ____

Purpose — Inherited Roth IRA accounts are subject to the required minimum distribution requirements found in section 408A of the Internal Revenue Code (IRC) and related regulations. When a Roth IRA accountholder dies, his or her designated beneficiary(ies) inherits the Roth IRA or a portion of the Roth IRA.

The IRC and related regulations do not expressly authorize the transfer of an inherited Roth IRA account from one Roth IRA custodian/trustee to another Roth IRA custodian/trustee. The purpose of this form is to authorize such a transfer if the current Roth IRA custodian/trustee of the existing Roth IRA is provided sufficient certification from the successor Roth IRA custodian/trustee that it understands that the transferred Roth IRA is an inherited IRA, and that applicable required minimum distribution (RMD) rules will be complied with.

This form is not to be used by a spouse beneficiary who elects to treat the deceased accountholder's Roth IRA as his or her own.

Certification of Current IRA Custodian/Trustee — We hereby certify to the successor custodian/trustee that the deceased accountholder maintained a Roth IRA under Code section 408A and that the beneficiary as identified above was a designated beneficiary of such Roth IRA. We have enclosed a copy of the deceased accountholder's governing Roth IRA plan agreement. We provide the following pertinent information:

____
____
____
____
____

Authorized Signature of Current Custodian/Trustee:

____________________________________Date:____________

Beneficiary's Instruction to Current Custodian/Trustee — I instruct you to transfer my inherited Roth IRA funds as referenced here to the successor custodian/ trustee as named above. I want all assets as listed below to be transferred pursuant to the following instructions.

○ Liquidate and transfer all my account assets.
○ Liquidate and transfer the assets listed at maturity.
Acct #: _____________ Maturity Date: ____________
Acct #: _____________ Maturity Date: ____________
Acct #: _____________ Maturity Date: ____________
○ Transfers assets "in kind" as listed here:
____
____
____

I understand that I have instructed you to liquidate certain assets, and I am aware of the penalties or losses which will result from this transfer instruction. You are to send a check payable to the successor custodian/trustee. I certify that I have established an inherited Roth IRA with the successor custodian/trustee.

Signature of Roth IRA Beneficiary:

____________________________________Date:____________

Certification of Successor Roth IRA Custodian/Trustee — We hereby advise the current custodian/trustee that we will accept the transfer of the above referenced beneficiary's inherited Roth IRA assets. We acknowledge receiving the relevant administrative information. We have agreed to act as the successor custodian/ trustee and certify that the beneficiary has a Roth IRA with us that meets the requirements of Code section 408A and that we certify that the distributions from this inherited Roth IRA will comply with the RMD rules as found in Code section 408A and related regulations.

Authorized Signature of Successor Custodian/Trustee:

____________________________________Date:____________

IRA #56-R Inherited (1/04) White — Current Custodian/Trustee Yellow — Successor Custodian/Trustee Pink — Beneficiary

The Two-Year Excess IRA Contribution Situation

Maggie Nacey contributed $500 on June 1, 2010. Maggie attained age 53 in 2010. On February 17, 2011, she contributed an additional $2,500 for tax year 2010. She comes to you (i.e. the IRA custodian) on March 23, 2011, and instructs you that she wishes to withdraw the entire amount of $3,000 under the excess contribution/current year rules.

What is Special or Different About this Situation?

There was a contribution in 2010 and another in 2011. The rule is that the income associated with the excess contribution must be withdrawn, and it will be taxable for the year in which (not for which) the contribution was made. This means that the income earned with respect to the $500 contribution will be taxed on her 2010 return and the income on the $2,500 will be taxed on the 2011 return.

The earnings related to the $500 contribution made in 2010 will be taxable on the 2010 tax return. The IRS definitely wants the IRA custodian in this situation to prepare the *Special Explanation Regarding the Withdrawal of a 2010 "Current Year' Contribution* form (or similar form) as set forth on page 6. Box 7 of the 2011 Form 1099-R will need to be completed with a reason Code P.

The earnings related to the $2,500 contribution made in 2011 (even though for 2010) will be taxable on the 2011 tax return. Box 7 of the 2011 Form 1099-R will need to be completed with a reason Code 8. In this situation, the IRS does not ask the IRA custodian to furnish a special form because the income is not taxable for the prior year. However, it certainly does not hurt to furnish the *Special Explanation Regarding the Withdrawal of a 2010 "Current Year" Contribution* form.

Summary. An IRA custodian must file a separate Form 1099-R for each different distribution code. Since the P and 8 are different, there will need to be two 2011 1099-R forms prepared. ◆

Sometimes Funds Within Roth IRAs Cannot be Moved to a Traditional IRA

A recent CWF consulting customer had a situation similar to the following. A Roth IRA accountholder established his IRA in June of 2008, with a contribution of $1,500. The accountholder is 61 years old in 2011, but has not yet met the 5-year holding period required before a qualified distribution can be taken from this Roth IRA. The accountholder now wants to change this Roth IRA to be a traditional IRA. Is this permissible?

It is not. Unless the recharacterization rules apply, there is no authority to move funds from a Roth IRA to a traditional IRA.

The conversion rules authorize the movement of funds from a traditional IRA to a Roth IRA, but not vice versa.

The recharacterization rules do not allow a person who made a contribution to a Roth IRA for 2008, to recharacterize it to be a traditional IRA in 2011. The time deadlines which apply to recharacterizing a 2008 contribution have long passed.

The recharacterization rules, in general, allow an individual who has made a contribution to a Roth IRA for a given year to recharacterize it to be a contribution to a traditional IRA as long as the transaction is accomplished by October 15 of the year following the year for which the contribution was made.

For example, if the accountholder had established his Roth IRA in 2008, for 2008, he would have until 10/15/09 to recharacterize the contribution to be to a traditional IRA. If he had made the original contribution in 2009, for 2009, he would have until 10/15/10 to recharacterize the contribution to be a traditional IRA. However, because this individual made his original Roth contribution in 2008, for 2008, he is no longer able to recharacterize the contribution to be to a traditional IRA, because the deadline for doing so (10/15/09) has already passed.

Conclusion. The general rule is that funds within a Roth IRA are ineligible to be moved to a traditional IRA via a rollover or transfer. There is the exception for recharacterizations, but time deadlines apply. ◆

Preliminary Tax Data — IRA/Pension Statistics for 2009

The IRS has recently issued preliminary tax data for tax year 2009. This tax data clearly shows that the recession continued during 2009. The number of taxpayers who filed returns actually decreased from 142.4 million to 140.5 million. Taxable income also decreased. The amount of funds being withdrawn from pension plans increased (531 billion for 2009 versus 504 billion for 2008) and the amount of IRA distributions decreased (133 billion for 2009 versus 160 billion for 2008) reflecting that RMDs were waived for 2009. The amount being contributed to pension plans and IRAs decreased as discussed below.

These statistics are preliminary statistics in the sense they were devised by an IRS economist using a sample of approximately 230,520 tax returns to make estimates with respect to 140.6 million tax returns.

Note that 885,000 self-employed individuals contributed 17.5 billion to their profit sharing, SEP and SIMPLE plans, whereas 2.6 million IRA accountholders contributed 11.5 billion. There should be special marketing efforts to your customers who are self-employed.

CHART A — SEP/SIMPLE/Profit Sharing Chart

Year	Contribution Amount	Number of Contributors	Average Contribution
2001	$13.1 billion	1.29 million	$11,048
2002	$16.3 billion	1.19 million	$13,774
2003	$16.9 billion	1.19 million	$14,202
2004	$18.0 billion	1.17 million	$15,385
2005	$19.4 billion	1.20 million	$16,202
2006	$20.2 billion	1.18 million	$17,200
2007	$20.1 billion	1.14 million	$17,720
2008	$18.5 billion	.97 million	$19,072
2009	$17.5 billion	.88 million	$19,780

CHART B — Traditional IRA Chart

Year	Contribution Amount	Number of Contributors	Average Contribution
2001	$7.41 billion	3.45 million	$2,148
2002	$7.41 billion	3.45 million	$2,148
2003	$10.16 billion	3.46 million	$2,936
2004	$10.20 billion	3.38 million	$3,018
2005	$12.21 billion	3.29 million	$3,707
2006	$12.77 billion	3.29 million	$3,885
2007	$13.19 billion	3.37 million	$3,914
2008	$11.91 billion	2.78 million	$4,284
2009	$11.49 billion	2.64 million	$4,358

Deductible Traditional IRA Contributions

The number of tax returns claiming a deduction for a traditional IRA contribution decreased by 5.0%.

The amount contributed to traditional IRAs decreased to 11.5 billion from 11.9 billion. This was a 3.5% decrease.

What was the AGI of those who made traditional IRA contributions for 2009?

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	116,362	307,085	593,637	987,400	523,834	108,893	2,637,211
% of Total Returns	4.41%	11.65%	22.51%	37.44%	19.86%	4.13%	100%
Contribution Amt. **(in thousands)**	$379,410	$994,612	$2,152,630	$4,230,746	$2,749,023	$986,996	$11,493,415
% of Total Contr.	3.30%	8.65%	18.73%	36.81%	23.92%	8.59%	100%
Avg. Contr. Amt.	$3,261	$3,239	$3,626	$4,285	$5,248	$9,064	$4,358

CWF Observations

1. The average IRA contribution, per return, was $4,358 for 2009.
2. 37% of all IRA contributions came from individuals with AGI between $50,000-$99,999.
3. 88% of all IRA contributions for 2009 came from individuals with AGI of $30,000 or More. This was up from 79% for 2008.

IRA and SEP/SIMPLE/Keogh Deductible Contributions

1. The number of tax returns claiming a deduction for a self-employed person's contributions to a profit sharing, SEP or SIMPLE decreased by 9.0%.
2. The amount contributed by self-employed individuals to a profit sharing plan, SEP or SIMPLE decreased to 17.5 billion from 18.5 billion. There was a 5.0% decrease.

What was the adjusted gross income (AGI) of those who made SEP/SIMPLE/Keogh contributions?

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	21,352	27,864	49,479	154,646	291,003	340,453	884,799
% of Total Returns	2.41%	3.15%	5.59%	17.48%	32.89%	38.48%	100%
Contribution Amt. **(in thousands)**	$136,343	$163,987	$351,223	$1,608,555	$4,351,248	$10,890,441	$17,501,797
% of Total Contr.	.78%	.94%	2.01%	9.19%	24.86%	62.22%	100%
Avg. Contr. Amt.	$6,385	$5,885	$7,098	$10,402	$14,953	$31,988	$19,780

CWF Observations on SEP/SIMPLE/Keogh Contributions for 2009

1. The average contribution per return is $19,780 for 2009 versus $19,072 for 2008.
2. 62% of contributions ($10.9 billion) come from individuals with AGI of $200,000 or more.
3. 87% of contributions (15.2 billion) come from individuals with AGI of more than $100,000.
4. The average contributions vary greatly depending on AGI.
5. Note that 885,000 self-employed individuals contributed 17.5 billion to their profit sharing, SEP and SIMPLE plans whereas 2.6 million IRA accountholders contributed 11.5 billion. There should be special marketing efforts to your customers who are self-employed.

The Retirement Savings Tax Credit

This credit has now been in existence for 8 years (2002 - 2009). This credit exists to induce individuals with low to moderate incomes to make IRA or 401(k) contributions.

What was the AGI of those who claimed this credit?

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	266,964	2,799,720	2,587,897	696,448	0	0	6,351,030
% of Total Returns	4.20%	44.08%	40.75%	10.97%	0	0	100%
Credit Amt. **(in thousands)**	$40,427	$451,597	$452,125	$114,502	0	0	$1,058,651
% of Total Credits	3.82%	42.66%	42.71%	10.81%	0	0	100%
Avg. Credit Amt.	$151.43	$161.30	$174.71	$164.41	0	0	$166.69

CWF Observations

1. Low- to moderate-income taxpayers were able to claim credits totaling $1 billion.
2. The average credit per tax return was $167.
3. Note that 6.3 million returns claimed this saver's credit. This is more than the number of returns which showed a traditional IRA contribution and claimed a tax deduction (2.64 million). Contributions to a traditional IRA, Roth IRA, 401(k) plan or other elective deferral plan qualify a person for this credit. ◆

Preliminary HSA Tax Data for 2009

With respect to tax year 2009 the IRS has estimated that there were 925,786 taxpayers who made contributions to HSAs and who claimed tax deductions totalling 2.9 billion dollars. The average contribution per tax return was $2,692.

The IRS has estimated that there were 810,279 taxpayers who made contributions to HSAs and who claimed tax deductions totalling 2.13 billion dollars for 2008. This means the average contribution per tax return was $2,629.

The number of tax returns claiming a deduction for contributions to an HSA increased by 14.3% to 925,786 from 810,279.

The amount contributed to an HSA (and deducted) increased to 2.48 billion from 2.13 billion. This was an increase of 16.9%.

Since this data comes from the 1040 tax returns it does not indicate any data for contributions made by corporate employers or deductions by corporations for having made HSA contributions.

For 2009, the maximum HSA contribution was $3,000 for self-only coverage and $5,950 for family coverage. Individuals age 55 or older were eligible to make an additional catch-up contribution of $1,000.

What was the AGI of those who made HSA contributions?

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	44,731	83,771	150,162	291,810	209,206	146,097	925,786
% of Total Returns	4.83%	9.05%	16.22%	31.52%	22.60%	15.78%	100%
Contribution Amt. **(in thousands)**	$122,934	$142,800	$275,402	$685,269	$601,890	$633,735	$2,492,032
% of Total Contr.	4.93%	5.73%	11.05%	27.50%	24.15%	26.64%	100%
Avg. Contr. Amt.	$2,748	$1,705	$1,834	$2,348	$2,877	$4,543	$2,692

CWF Observations

1. The average 2009 return showed a contribution of $2,692 versus $2,627 for 2008.
2. 78.3% of the contributions came from individuals with $50,000 or more of AGI. This was a decrease of 4.6% versus 2008.
3. The largest average contribution was from the $200,000 and over group and it was $4,543 per return. The next largest average contribution was $2,877 and it came from the $100,000 to $199,999 group. ◆