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The Pension Digest

ALSO IN THIS ISSUE –

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

No Change in IRA Limits for 2011 & 2012

The maximum IRA contribution limits for 2011 and 2012 remain at $5,000 (under age 50) and $6,000 (age 50 or older). For the fourth straight year, the formula to the base contribution amount of $5,000 has not resulted in an increase. An adjustment to the base amount is made only if it results in an increase of $500, $1,000, $1,500, etc. The standard contribution amount is still $5,000 for those individuals who do not attain age 50 by December 31, 2012. A catch-up contribution of $1,000 is authorized for those individuals who attain at least age 50 by December 31, 2012.

Contribution limits for a person who is not age 50 or older.

Tax Year	Amount
2009	$5,000
2010	$5,000
2011	$5,000
2012	$5,000

Contribution Limits for a person who is age 50 or older.

Tax Year	Amount
2009	$6,000
2010	$6,000
2011	$6,000
2012	$6,000

IRS Issues 2012 COLAs

IRS Announces Cost-of-Living Adjustments for 2012
The IRS in News Release No. IR-2011-103 Released its 2012 Adjustments as Follows:

	2010	2011	2012
Taxable Wage Base — OASDI Only	$106,800	$106,800	$110,100
SEP and Qualified Plan Maximum Compensation Cap – 401(a)(17) & 404(e)	$245,000	$245,000	$250,000
Elective (Salary) Deferral Limit – 401(k) & SAR-SEP	$16,500	$16,500	$17,500
Elective Deferral Catch-up Limit	$5,500	$5,500	$5,500
SIMPLE Deferral Limit – 408(p)(2)(A)	$11,500	$11,500	$11,500
SIMPLE Catch-up Limit	$2,500	$2,500	$2,500
Highly-Compensated Employees (Compensation as Indexed)	$110,000	$110,000	$115,000
Defined Benefit Limit – Section 415(b)(1)(A)	$195,000	$195,000	$205,000
Defined Contribution Limit – Section 415(c)(1)(A)	$49,000	$49,000	$50,000
SEP Minimum Compensation Threshold – 408(k)(2)(c)	$550	$550	$550
Key Employee Top Heavy — 41(i)(ii)(a)(i)	$160,000	$160,000	$165,000
Compensation for SIMPLE Eligibility	$5,500	$5,500	$5,500

IRS Grants Extension on Project to Update QP Prototype Plans

The IRS released Rev. Proc. 2011-49 in October. It is set forth in Internal Revenue Bulletin 2011-42 as issued with the print date of October 24, 2011.

This revenue procedure has two primary purposes. First, it modifies (and supercedes) the rules and procedures set forth in Rev. Proc. 2005-16. Second, it extends the submission deadline to submit applications for opinion and advisory letters for sponsors and practitioners maintaining defined contribution mass submitter plans from October 31, 2011 to January 31, 2012.

A primary reason for the extension is that the IRS only recently issued the LRM's (Language Required Modifications) for 401(k), profit sharing and money purchase prototype plans. LRM's are the changes which the prototype writers are strongly encouraged to include in the rewritten prototypes. Since this is pre-approved language as written by the IRS, using such LRM's speeds up the IRS review process.

The IRS is a little behind on this project as the second six-year remedial amendment cycle for pre-approved defined contribution plans began on February 1, 2001 and ends on January 31, 2017.

The IRS has not yet announced the deadline for employers to execute the updated prototypes. The IRS has said it will announce this deadline when its review of the of the pre-approved plans is close to being completed.

No Logos, Slogans and Advertising on 2011 IRS Information Forms

In prior years the IRS prohibition against including logos, slogans or advertising materials did not apply to IRA reporting forms. This prohibition applies to 2011 IRA reporting forms, including substitute forms.

Tuesday, April 17, 2012 is Tax Filing Deadline for 2011 and October 16, is Extended Tax Filing Deadline for 2011.

The tax filing deadline for 2011 federal tax returns is Tuesday, April 17, 2011. This is due to the fact that April 15 falls on a Sunday and April 16 is Emancipation day (holiday) and falls on Monday. The next business day is Tuesday.

This also means traditional and Roth IRA accountholders, HSA owners and CESA accountholders have until April 17, 2012 to make their 2011 IRA, HSA, or CESA contribution. Why? Under tax rules, District of Columbia holidays impact tax deadlines the same way the federal holidays do. In the District of Columbia, Emancipation Day is a holiday and in 2012 it falls on Monday. This means the tax deadline of April 15, is extended to the following Tuesday, April 17. Taxpayers requesting an extension will have until October 16 2012 to file their 2010 tax returns. October 16, 2011 is also the deadline for making certain SEP and SIMPLE-IRA contributions for tax year 2011.

It is unclear if the deadline for making recharacterizations for 2011 or for correcting excess contributions for 2011 is October 16 or October 17 (filing deadline plus 6 months) .

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An Inherited IRA Mistake – Steps to Correct

Helen has recently come into First State Bank. You handle many IRA duties at First State Bank. She informs you that she inherited an IRA from her mother, Elizabeth Horner. Elizabeth had died in 2007. She died after her required beginning date. Elizabeth had established her IRA with National Big Bank in 1996 and the inherited IRA is still at National Big Bank. Elizabeth had been distributed her RMD for 2007 prior to her death. Helen has not taken any RMD distribution for 2007-2011 because the IRA personnel of National Big Bank told she did not need to.

She has recently done some research with respect to a beneficiary's duty to take required minimum distributions. She now thinks what she was told was wrong.

She wants to discuss her situation with you. She is looking to move these inherited IRA funds to First State Bank. She wants your help.

Additional Facts. Elizabeth was born in 1926. Helen was age 53 in 2007 and age 54 in 2008. Her IRA had a value of $68,475 as of her date of death. The value as of October 31, 2011 is $79,000. The IRA personnel of National Big Bank had convinced Helen to invest the $68,475 into a 48 month CD. An early withdrawal interest penalty would be assessed if she surrendered the time deposit prior to its maturity.

It matured on October 31, 2011. The IRA personnel told her that because she was eligible to use the 5-year rule she was not required to use the life distribution rule and take annual distributions, commencing in 2008.

This information was wrong. Since Elizabeth died after her required beginning date, Helen was required by the IRA laws to take RMDs over her life expectancy commencing the year after Elizabeth died. This was 2008. Helen was required to take an RMD for 2008 and each subsequent year with the exception for 2009. All RMDs were waived for 2009.

Your Assistance. You should advise Helen that she needs to discuss this situation with her tax attorney or accountant. She does have tax issues and problems.

Helen did not take any RMD for 2008 or 2010. Unless the IRS would waive the 50% tax, she owes the 50% tax with respect to 2008 and 2010. The total RMD for 2010 is the sum of the RMDs for 2008 and 2010. Helen can still take her RMD for 2011 and by doing so she would not owe the 50% tax for 2011.

She will need to calculate her RMDs for 2008, 2010 and 2011. She has furnished you with the following IRA balances:

12-31-07	$70,185
12-31-08	$73,700
12-31-09	$75,910
12-31-10	$78,190
12-31-11	To be determined

The RMD for a given year is: divide the FMV as of December 31 of the preceding year by a divisor based on the age of the beneficiary. For the first year (i.e. the year after the year of death), determine this divisor from the Single Life table. For subsequent years, subtract one for each subsequent year. Helen was age 54 in 2008. The initial divisor is 30.5.

RMD for 2008 $70,185/30.5 = $2,301.15
RMD for 2009 None (All RMDs waived for 2009)
RMD for 2010 $75,910/28.50 = $2,663.51
RMD for 2011 $78,190/27.5 = $2,843.27

Note: the FMVs for 2009 and 2010 are not adjusted for the missed RMDs.

The total of these RMD's is $7,807.93. The most conservative approach is to have National Big Bank pay the $7,807.93 to Helen as soon as possible. She should complete the distribution form to show that $7,807.93 is to be paid to her.

The remaining amount of $70,192.07 (maturity balance of $78,190-$7,807.97) is eligible to be transferred to an inherited IRA with State Bank. It cannot be rolled over.

Helen does owe the 50% under-distribution or excess accumulation tax for 2008 and 2010. For 2008 she owes the 50% tax on $2,301.15 or $1,150.58 plus interest and penalties. For 2010 she owes the 50% tax on the $2,301.15 and the $2,663.51 or $2,482.33 plus interest and penalties. The total amount owed is $3,632.91 plus interest and penalties.

The IRS has the authority to waive this 50% excess accumulation tax if it would be unfair or inequitable to Helen to not waive it. Helen can request the IRA waive the 50% tax. Helen must be able to furnish a reasonable

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IRA Contribution Deductibility Chart for 2011

(for participants and/or spouses in employer-sponsored retirement plans.)

Amount of Modified AGI - (Combined modified AGI if married)

Single

Below $56,001	Entitled to full deduction
$56,001-$65,999.99	Entitled to prorated deduction amount - use special formula**
$66,000 or over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $56,000/$10,000. This will give you a ratio that determines the amount you cannot deduct.*

Married - joint return, both are covered

Below $90,001	Entitled to full deduction
$90,001 - $109,999.99	Entitled to prorated deduction amount - use special formula**
$110,000 or Over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $90,000/$20,000. This will give you a ratio that determines the amount you cannot deduct.*

Married - joint return, but only you are covered

Below $90,001	Fully Deductible
$90,001-$109,999.99	Entitled to prorated deduction amount - use special formula**
$110,000 or over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $90,000/$20,000. This will give you a ratio that determines the amount you cannot deduct.*

Married - joint return, but only your spouse is covered

Below $169,001	Fully Deductible
$169,001-$178,999.99	Entitled to prorated deduction amount - use special formula**
$179,000 or over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $169,000/$10,000. This will give you a ratio that determines the amount you cannot deduct.*

Married Filing Separately

Below $10,000	Entitled to prorated deduction amount - use special formula**
$10,000 or Over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $0/$10,000. This will give you a ratio that determines the amount you cannot deduct.*

*Any amount determined under this formula which is not a multiple of $10 shall be rounded to the next lowest $10.

However, an IRA accountholder will be able to deduct a minimum of $200 as long as his or her AGI is not above the phase-out range (base amount plus $10,000).

IRA Contribution Deductibility Chart for 2012

(for participants and/or spouses in employer-sponsored retirement plans.)

Amount of Modified AGI - (Combined modified AGI if married)

Single

Below $58,001	Entitled to full deduction
$58,001-$67,999.99	Entitled to prorated deduction amount - use special formula**
$68,000 or over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $58,000/$10,000. This will give you a ratio that determines the amount you cannot deduct.*

Married - joint return, both are covered

Below $92,001	Entitled to full deduction
$92,001 - $111,999.99	Entitled to prorated deduction amount - use special formula**
$112,000 or Over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $92,000/$20,000. This will give you a ratio that determines the amount you cannot deduct.*

Married - joint return, but only you are covered

Below $92,001	Fully Deductible
$92,001-$111,999.99	Entitled to prorated deduction amount - use special formula**
$112,000 or over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $92,000/$20,000. This will give you a ratio that determines the amount you cannot deduct.*

Married - joint return, but only your spouse is covered

Below $173,001	Fully Deductible
$173,001-$182,999.99	Entitled to prorated deduction amount - use special formula**
$183,000 or over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $173,000/$10,000. This will give you a ratio that determines the amount you cannot deduct.*

Married Filing Separately

Below $10,000	Entitled to prorated deduction amount - use special formula**
$10,000 or Over	No deduction permissible

**Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $0/$10,000. This will give you a ratio that determines the amount you cannot deduct.*

*Any amount determined under this formula which is not a multiple of $10 shall be rounded to the next lowest $10.

However, an IRA accountholder will be able to deduct a minimum of $200 as long as his or her AGI is not above the phase-out range (base amount plus $10,000).

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Roth IRA Contribution Chart for 2011

Amount of AGI and Filing Status

Single, Head of Household or Qualifying Widow(er)

Below $107,000	Entitled to full contribution amount
$107,000-$121,999	Entitled to prorated contribution amount–use special formula*
$122,000 or over	No contribution permissible

*Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $107,000/$15,000. This will give you a ratio that determines the amount you cannot contribute. Round to the lowest $10.00.

Married Filing Jointly

Below $169,000	Entitled to full contribution amount.
$169,000-178,999	Entitled to prorated contribution amount–use special formula.*
$179,000 or over	No contribution permissible.

*Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $169,000/$10,000. This will give you a ratio that determines the amount you cannot contribute. Round to the lowest $10.00.

Married Filing Separate Returns

$0-$9,999	Entitled to prorated contribution amount–use special formula*
$10,000 or Over	No contribution permissible

*Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $0/$10,000. This will give you a ratio that determines the amount you cannot contribute. Round to the lowest $10.00.

Roth IRA Contribution Chart for 2012

Amount of AGI and Filing Status

Single, Head of Household or Qualifying Widow(er)

Below $110,000	Entitled to full contribution amount
$110,000-$125,000	Entitled to prorated contribution amount–use special formula*
$125,000 or over	No contribution permissible

*Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $110,000/$15,000. This will give you a ratio that determines the amount you cannot contribute. Round to the lowest $10.00.

Married Filing Jointly

Below $173,000	Entitled to full contribution amount.
$173,000-183,000	Entitled to prorated contribution amount–use special formula.*
$183,000 or over	No contribution permissible.

*Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $173,000/$10,000. This will give you a ratio that determines the amount you cannot contribute. Round to the lowest $10.00.

Married Filing Separate Returns

$0-$9,999	Entitled to prorated contribution amount–use special formula*
$10,000 or Over	No contribution permissible

*Explanation of special formula. Multiply the permissible contribution by the following ratio: amount of adjusted gross income in excess of $0/$10,000. This will give you a ratio that determines the amount you cannot contribute. Round to the lowest $10.00.

Saver's Credit Limits for 2011

The applicable percentage for 2011 is based on modified adjusted gross income (AGI) and your tax-filing status, and is determined by the following table:

Joint Return

AGI Over	AGI Not Over	Percentage
$0	$34,000	50%
$34,000	$36,500	20%
$36,500	$56,500	10%
$56,500	N/A	0%

Head of Household

AGI Over	AGI Not Over	Percentage
$0	$25,500	50%
$25,500	$27,375	20%
$27,375	$42,375	10%
$42,375	N/A	0%

Other Filers Including Married, Filing Separately

AGI Over	AGI Not Over	Percentage
$0	$17,000	50%
$17,000	$18,250	20%
$18,250	$28,250	10%
$28,250	N/A	0%

Saver's Credit Limits for 2012

The applicable percentage for 2012 is based on modified adjusted gross income (AGI) and your tax-filing status, and is determined by the following table:

Joint Return

AGI Over	AGI Not Over	Percentage
$0	$34,500	50%
$34,500	$37,500	20%
$37,500	$57,500	10%
$57,500	N/A	0%

Head of Household

AGI Over	AGI Not Over	Percentage
$0	$25,875	50%
$25,875	$28,125	20%
$28,125	$43,125	10%
$43,125	N/A	0%

Other Filers Including Married, Filing Separately

AGI Over	AGI Not Over	Percentage
$0	$17,250	50%
$17,250	$18,750	20%
$18,750	$28,750	10%
$28,750	N/A	0%

SEP and SIMPLE Limits

	2010	2011	2012
Maximum SEP Contribution	$49,000	$49,000	$50,000
Maximum SIMPLE Deferral (Under age 50)	$11,500	$11,500	$11,500
Maximum SIMPLE Deferral (Under Age 50 & older)	$14,000	$14,000	$14,000

SIMPLE-IRA Plans are not SIMPLE When the Sponsoring Employer Fails to Timely Deposit the Employees' Payroll Contributions

We recently furnished an IRA custodian a response similar to the following memo. The memo discusses the concerns an IRA custodian have when an employer sponsoring a SIMPLE PLAN contributes the employees' SIMPLE-IRA contributions once a year rather than every payroll.

Memo:

Under the Form 5305-SIMPLE, the bank is the designated financial institution. This form does not contain any express provisions requiring the bank to take any express action because the employer is not depositing the employees' elective deferrals on a timely basis. Rather, the employer is making the contribution at the end of the year.

If the employer understood the tax problems it has created by its action, the employer never would have adopted this action.

It is good that you have written the employer. The bank may even wish to consider resigning as the Designated Financial Institution and also as the custodian for each SIMPLE-IRA. I am not exactly sure how the various governmental entities would react, but they would not like this situation if they knew about it. There may well come a time when the IRS, the DOL or the bank examiners would take the position that the bank as a fiduciary with respect to the IRA has "some duty" to act in the best interest of the SIMPLE-IRA accountholders. That is, the bank would need to report to each accountholder that the employer was not complying with the rules to deposit timely the elective deferrals.

The DOL definitely would be interested in knowing that an employer has adopted the procedure of contributing such funds at the end of the year.

We suggest the bank discuss this subject with the bank's law firm and/or accounting firm. The employer's use of such funds (not contributing on a timely basis) is a prohibited transaction. It is the employer who would be liable to pay the 15% tax. The 15% tax is owed with respect to the balance of each SIMPLE-IRA as of January 1st and not just this year's contribution.

We don't think the law is so clear that the bank must prepare a Form 1099-R reporting that a prohibited transaction has occurred. However, we could see the IRS or the DOL adopting the position that the bank as the designated financial institution has this duty.

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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 2012 Social Security Information

Maximum Social Security Benefit: Worker Retirement at Full Retirement Age in Note: For retirees born in 1944, full retirement age is 66 and 0 months.	**2011** $2,366/mo.	**2012** $2,513/mo.

An Inherited IRA Mistake, Continued from page 3

explanation as to why she did not take the RMD(s). She believes she has a reasonable explanation. She relied on the incorrect guidance as issued by National Big Bank. She also needs to explain to the IRS that once she learned of the excess accumulation she corrected the error by taking a distribution. She (or her tax preparer) would file amended tax returns for 2008 and 2010. She would need to attach the 5329 form for 2008 and 2010 and also attach her explanation/request for waiver.

It appears that the IRS generally does not attempt to verify a claim by an individual that the IRA custodian was at fault. This cannot be guaranteed, however, and the IRS waiving the 50% tax cannot be guaranteed.

The tax law is clear that it is the person who missed taking the RMD who owes the 50% tax. This is Helen, it is not National Big Bank.

However, if the IRS decided not to waive the 50% tax for Helen, then Helen may well argue that National Big Bank was "negligent" in how it serviced the inherited IRA and that it should bear some of the 50% tax.

The law is murky as to whom is liable when a beneficiary fails to take an RMD. The IRA plan agreement (Article IV) clearly mandates that RMDs will be made by the IRA custodian to the inheriting beneficiary once the IRA owner dies. However, the IRS has stated that an IRA custodian is not required to furnish an RMD notice to a beneficiary as it must to the IRA owner who is age 70½ or older. One can expect an IRA custodian to argue, "if we aren't required to furnish an RMD notice, then we must not be required to make the RMD distribution." However, they are not the same thing.

In summary, there will be times when an IRA custodian will make errors in servicing an inherited IRA. When this occurs, the inheriting IRA beneficiary will normally want to transfer the inherited IRA funds to a different IRA custodian. You can be ready to help. Inherited IRAs will normally be long term deposits.

PLAN LIMITS FOR 2012

Code Section	2012	2011	2010	2009	2008	2007	2006	2005
401(a)(17)/404(I) Annual Compensation	$250,000	$245,000	$245,000	$ 245,000	$ 230,000	$ 225,000	$ 220,000	$ 210,000
415(c)(1)(A) Maximum Contribution Limits	$50,000	$49,000	$49,000	$ 49,000	$ 46,000	$ 45,000	$ 44,000	$ 42,000
408(k)(3)(C) SEP Maximum Compensation	$250,000	$245,000	$245,000	$ 245,000	$ 230,000	$ 225,000	$ 220,000	$ 210,000
408(k)(2)(C) SEP Minimum Compensation	$550	$550	$550	$ 550	$ 500	$ 500	$ 450	$ 450
402(g)(1) Elective Deferrals - 401(k)	$17,000	$16,500	$16,500	$ 16,500	$ 15,500	$ 15,500	$ 15,000	$ 14,000
457(e)(15) Deferrals Limits - 457 plans	$17,000	$16,500	$16,500	$ 16,500	$ 15,500	$ 15,500	$ 15,000	$ 14,000
408(p)(2)(E) Deferrals Limits - SIMPLE	$11,500	$11,500	$11,500	$ 11,500	$ 10,500	$ 10,500	$ 10,000	$ 10,000
414(v)(2)(B)(i) Catchup Contributions - 401(k)	$5,500	$5,500	$5,500	$ 5,500	$ 5,000	$ 5,000	$ 5,000	$ 4,000
414(v)(2)(B)(ii) Catchup Contributions - SIMPLE	$2,500	$2,500	$2,500	$ 2,500	$ 2,500	$ 2,500	$ 2,500	$ 2,000
416(i)(1)(A)(i) Key EE	$165,000	$160,000	$160,000	$ 160,000	$ 150,000	$ 145,000	$ 140,000	$ 135,000
1.61-21(f)(5)(i) Control EE	$100,000	$95,000	$95,000	$ 95,000	$ 90,000	$ 90,000	$ 85,000	$ 85,000
1.61-21(f)(5)(iii) Control EE	$205,000	$195,000	$195,000	$ 195,000	$ 185,000	$ 180,000	$ 175,000	$ 170,000
409(o)(1)(C)(ii) ESOP Limits	$1,015,000 $200,000	$985,000 $195,000	$985,000 $195,000	$ 985,000 $ 195,000	$ 935,000 $ 185,000	$ 915,000 $ 180,000	$ 885,000 $ 175,000	$ 850,000 $ 170,000
414(q)(1)(B) HCE Threshold	$115,000	$110,000	$110,000	$ 110,000	$ 105,000	$ 100,000	$ 100,000	$ 95,000
415(b)(1)(A) DB Limits	$200,000	$195,000	$195,000	$ 195,000	$ 185,000	$ 180,000	$ 175,000	$ 170,000
Taxable Wage Base (TWB)	$110,100	$106,800	$106,800	$ 106,800	$ 102,000	$ 97,500	$ 94,200	$ 90,000