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



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No Tax Legislation Yet to Extend QCDs for 2012

The federal income tax laws presently do not authorize a person to make a qualified charitable distribution (QCD) for 2012. The authority to make a QCD ended December 31, 2011.

Only time will tell whether or not there will be a tax bill enacted into law allowing a person to make a QCD for 2012 and later years.

The extension of this special tax law is not guaranteed. The charitable industry has a powerful lobby in Washington, D.C., and they will be arguing the QCD rules should be extended or made permanent.

However, the QCD rules result in less tax revenues being paid to the U.S. Treasury. Individuals have been allowed to give \$100,000 of taxable funds to certain charities on a tax-free basis. ♦

No Special Reporting for 2011 QCDs

IRS Reporting Tasks for QCDs

There is no special reporting for QCDs by the IRA custodian. Many times IRA accountholders and their tax advisors think the IRA custodian should be preparing the Form 1099-R to show the distribution as being tax-free. This is not the IRS procedure. A QCD is to be reported as a “normal” distribution since the IRA accountholder or inheriting beneficiary is older than age 59½. The indi-

2011 IRA Contribution Deadline is Tuesday, April 17, 2012 Due to Emancipation Day

The federal rule is that when April 15th falls on Saturday, Sunday or a legal holiday, then a tax return is considered timely if filed on the next succeeding day which is NOT a Saturday, Sunday or holiday.

Emancipation Day is April 16th and it is a legal holiday in Washington, D.C. In some years this holiday impacts the deadline for filing federal income tax returns.

In 2012, April 15th falls on Sunday. April 16th is a Monday and it is also Emancipation Day. This means in 2012, Monday is a holiday for federal income tax purposes. Consequently, the filing deadline for all tax forms and payments required to be filed or completed on or before April 15th (as described in Section 6072(a), including the Form 1040 returns) will be Tuesday, April 17, 2012. This April 17, 2012 deadline applies to traditional and Roth IRA contributions, HSA contributions and CESA contributions for tax year 2011. ♦

2012 IRA Contribution Deadline is Monday, April 15, 2013

Since April 15, 2013 falls on a Monday, there will be no adjustment of the 2012 filing deadline.

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IRS Releases 2012 Instructions and Forms for 1099-R and 5498

Form 1099-R

The changes between the 2011 and 2012 instructions for the Form 1099-R are minimal.

1. The IRS acknowledges that it is permissible for the IRA custodian to truncate the IRA owner's or beneficiary's identification number for 2011 and 2012 reporting forms. The instructions mention Notice 2011-38 as allowing an IRA custodian to use a truncated identification number. There is no mention whether truncation will be permitted for 2013 forms. The IRS will need to give future guidance regarding truncation of the identification numbers for 2013.
2. The 2012 instructions deleted all discussion regarding qualified charitable distributions.
3. The 2012 instructions for certain designated Roth account distributions from 401(k) plans were changed to acknowledge that the individual would not owe the 10% penalty for pre-59½ distributions if he or she met one of the exceptions to the 10% tax.

The 2012 Form 1099-R is identical to the 2011 form except for updating the years.

Form 5498

With one exception, like with the changes to the Form 1099-R, the changes between the 2011 and 2012 instructions for the Form 5498 are minimal.

1. The IRS acknowledges that it is permissible for the IRA custodian to truncate the IRA owner's or beneficiary's identification number for 2011 and 2012 reporting forms. The instructions mention Notice 2011-38 as allowing an IRA custodian to use a truncated identification number. There is no mention whether truncation will be permitted for 2013 forms. The IRS will need to give future guidance regarding truncation of the identification numbers for 2013.
2. In the section covering reporting RMDs for 2013 on the Form 5498, all discussion regarding qualified charitable distributions has been deleted.

The one exception. The IRS did a substantial rewrite of the special reporting for U.S. Armed Forces personnel in designated combat zones. The actual IRS language from page 16 and 17 is set forth.

Special reporting for U.S. Armed Forces in designated combat zones. A participant who is serving in or in support of the Armed Forces in a designated combat zone or qualified hazardous duty area has an additional period after the normal contribution due date of April 15 to make IRA contributions for a prior year. The period is the time the participant was in the designated zone or area plus at least 180 days. The participant must designate the IRA contribution for a prior year to claim it as a deduction on the income tax return. Under section 219(f), combat zone compensation that is excluded from gross income under section 112 is treated as includible compensation for purposes of determining IRA contributions.

Under section 219(f), combat zone compensation that is excluded from gross income under section 112 is treated as includible compensation for purposes of determining IRA contributions.

A qualifying participant is:

- Serving, or has served in a combat zone,
- Serving, or has served in a qualifying hazardous duty area, or
- Serving, or has served in an active direct support area.

If a qualifying participant makes a contribution to an IRA after April 15 and designates the contribution for a prior year, you must report the type of IRA (box 7) and the amount on Form 5498. Report the amount either for (1) the year for which the contribution was made or (2) a subsequent year. See boxes 13a, 13b, and 13c, later.

1. If you report the contribution for the year it is made, no special reporting is required. Include the contribution in box 1 or box 10 of an original Form 5498 or of a corrected Form 5498 if an original was previously filed.

2. If you report the contribution on Form 5498 in a subsequent year, you must include the year for which the contribution was made, the amount of the contribution, and one of the following indicators.

a. Use "EO13239" for Afghanistan and those countries in direct support, including Djibouti, Jordan, Kyrgyzstan, Pakistan, Somalia, Syria, Tajikistan, Uzbekistan, Yemen, and the Philippines. For the Philippines only, personnel must be deployed in conjunction with Operation Enduring Freedom supporting military operations in the Afghanistan combat zone.

b. Use "EO12744" for the Arabian Peninsula, including air space and adjacent waters (the Persian Gulf, the Red Sea, the Gulf of Oman, the Gulf of Aden, the portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude, and the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, the United Arab Emirates), and Jordan which is in direct support of the Arabian Peninsula.

c. Use "EO13119" or Public Law 106-21 "PL106-21" for the Federal Republic of Yugoslavia (Serbia and Montenegro), Albania, Kosovo, the Adriatic Sea, and the Ionian Sea north of the 39th parallel. (Note: the combat zone designation for Montenegro and Kosovo (previously a province within Serbia) under Executive Order 13119 remains in force even though Montenegro and Kosovo became independent nations since EO 13119 was signed.)

CAUTION! For additions to, or subtractions from, the list of combat zones or qualified hazardous duty areas implemented by executive orders and public laws, and direct support areas designated by the Secretary of Defense, after the publication date of these instructions, go to www.irs.gov/form5498.

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2012 Instructions, Continued from page 2

Example. For a \$4,000 IRA contribution designated by a participant who served under EO 13239 for the tax year 2009, enter "4000" in box 13a, "2009" in box 13b, and "EO13239" in box 13c only. Make no entry in box 1 or box 10.

Repayment of qualified reservist distributions. Report any repayment of a qualified reservist distribution as described in section 72(t)(2)(G) in boxes 14a (amount) and 14b (with indicator code "QR").

Military death gratuities and servicemembers' group life insurance (SGLI) payments. Recipients of military death gratuities and SGLI payments may contribute amounts received to a Roth IRA, up to the amount of the gratuity or SGLI payment less any amounts contributed to Coverdell ESAs. Report the amount of the rollover contribution in box 2 only. See section 408A(e)(2), and Notice 2010-15, 2010-06 I.R.B. 390, available at www.irs.gov/irb/2010-06_IRB/ar09.html, for more information on limitations.

Electronic filers. You may request an automatic waiver from filing Forms 5498 for combat zone participants by submitting Form 8508, Request for Waiver From Filing Information Returns Electronically. Once you have received the waiver, you may report all Forms 5498 for combat zone participants on paper. Alternatively, you may report contributions made by the normal contribution due date electronically and report the contributions made after the normal contribution due date on paper. You may also report prior year contributions by combat zone participants on a corrected Form 5498 electronically or on paper.

See part F in the 2012 General Instructions for Certain Information Returns for information on how to request a waiver on Form 8508.

Set forth below are the instructions for Boxes 13a-c.

Box 13a. Postponed contribution

Report the amount of any postponed contribution made in 2012 for a prior year. If contributions were made for more than 1 prior year, each prior year's postponed contribution must be reported on a separate form.

Box 13b. Year

Enter the year for which the postponed contribution in box 13a was made.

Box 13c. Code

Enter the reason the participant made the postponed contribution.

- For participants' service in a combat zone, hazardous duty area, or direct support area, enter the appropriate executive order or public law as defined under Special reporting for U.S. Armed Forces in designated combat zones beginning on page 16.
- For participants who are "affected taxpayers," as described in an IRS News Release relating to a federally designated disaster area, enter FD.

The 2012 Form 5498 is identical to the 2011 form except for updating the years.

In summary, the primary change to the 2012 Instructions for Forms 5498 and 1099-R were the reporting procedures for postponed military contributions. ♦

No Special Reporting for 2011 QCDs, Continued from page 1

vidual will be required to complete lines 15a and 15b of the federal income tax return. The general rule is that most IRA distributions are fully taxable so line 15a is left blank and the taxable amount is inserted on line 15b. An exception applies to QCDs. If the total distribution is a QCD, enter 0 on line 15b and write QCD next to line 15b. If only part of the distribution is a QCD, enter the part that is not the QCD on line 15b. Enter QCD next to line 15b.

CWF believes the IRS has adopted this administrative approach because the laws authorizing QCDs have only been temporary laws for 2006-2007, 2008-2009, and 2010 and 2011. ♦

2012 IRA Contribution Deadline, Continued from page 1

The observance of Emancipation Day on April 16 in Washington, D.C. will NOT result in an adjustment to the April 15th deadline.

This April 15, 2013 deadline applies to traditional and Roth IRA contributions, HSA contributions and CESA contributions for 2012. ♦

Understanding the Interplay Between the 10% Pre-59½ Distribution Tax and the Federal Income Tax Withholding Rules

IRA custodian personnel many times believe they as the IRA custodian have a special duty to collect the 10% “penalty” tax when a person under the age of 59½ takes an IRA distribution.

There is no such special duty. We hope we can make this clear in the following discussion.

For discussion purposes we will assume Annalise, age 35, withdraws \$7,000 from her traditional IRA. You as the IRA custodian furnish her an IRA distribution form. She completes the withholding section as discussed below.

As with all IRA distributions, the law requires the IRA custodian to withhold 10% of the distribution amount unless the recipient instructs to have no withholding or to withhold an amount greater than 10%. In Annalise’s situation, the 10% would be \$700.

The withholding of income tax is simply a way for an individual to make prepayments against his or her end of year tax liability. Federal law and many state laws require that a taxpayer have sufficient withholding throughout the tax year or tax penalties will be assessed.

There are laws requiring certain individuals to make quarterly estimated tax payments.

In addition to the previously stated facts, it is assumed that Annalise’s marginal income tax bracket for 2012 is 25%.

Therefore, Annalise will owe income tax totalling \$2,450 on her \$7,000 IRA distribution (\$7,000 x 25% or \$1,750 plus \$7,000 x 10% or \$700).

The most conservative (and prudent) approach for Annalise would be to instruct to have \$2,450 withheld. This would be done by completing the withholding section of the IRA distribution form. See below (A).

However, Annalise does have the right to complete the withholding section of the IRA distribution form to instruct that she does not want any amount withheld. See below (B).

In summary, when an IRA owner who is under age 59½ takes an IRA distribution, the tax which the IRA owner owes is the sum of two taxes. First, the tax owing because this amount must be included in the individual’s income. This tax will be determined by applying the individual’s marginal income tax bracket. This could be 0%, 5%, 10%, 15%, 25% or 36%. Second, the individual will also need to pay the 10% penalty tax unless he or she qualifies for an exception.

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------------------------------------------------------------|-------------------|
| Substitute FORM W-4P Department of the Treasury (IRS) | | Withholding Certificate for IRA Pension or Annuity Payments | OMB NO. 1545-0074 |
| The instructions to this substitute Form W-4P are on the reverse side as well as additional discussion of special withdrawal topics. Select #1, #2, or #2 and #3. | | | |
| 1. <input type="radio"/> I elect not to have income tax withheld from this IRA distribution. 2. <input checked="" type="radio"/> I elect to have income tax withheld from this IRA distribution equal to 10% of the amount withdrawn. This amount is \$ <u>700.00</u> 3. <input checked="" type="radio"/> I want the following additional amount withheld from each IRA payment. \$ <u>1,700.00</u> | | | |
| Signature of Payee/Recipient | Date | Custodian/Trustee (Payer) | Date |
| <div style="display: flex; justify-content: space-between; align-items: center;"> <div> IRA #57 (10/11) </div> <div> While – Custodian/Trustee Yellow – Accountholder Pink – Administration </div> <div> © 2011 Collin W. Fritz & Associates, Ltd. </div> </div> | | | |

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------------------------------------------------------------|-------------------|
| Substitute FORM W-4P Department of the Treasury (IRS) | | Withholding Certificate for IRA Pension or Annuity Payments | OMB NO. 1545-0074 |
| The instructions to this substitute Form W-4P are on the reverse side as well as additional discussion of special withdrawal topics. Select #1, #2, or #2 and #3. | | | |
| 1. <input checked="" type="radio"/> I elect not to have income tax withheld from this IRA distribution. 2. <input type="radio"/> I elect to have income tax withheld from this IRA distribution equal to 10% of the amount withdrawn. This amount is \$ _____ 3. <input type="radio"/> I want the following additional amount withheld from each IRA payment. \$ _____ | | | |
| Signature of Payee/Recipient | Date | Custodian/Trustee (Payer) | Date |
| <div style="display: flex; justify-content: space-between; align-items: center;"> <div> IRA #57 (10/11) </div> <div> While – Custodian/Trustee Yellow – Accountholder Pink – Administration </div> <div> © 2011 Collin W. Fritz & Associates, Ltd. </div> </div> | | | |

Note – the IRA custodian has no special duty to collect the 10% penalty tax when an IRA owner who is younger than age 59½ takes an IRA distribution. The individual has the right to instruct that he or she wants no withholding. It may not be the prudent thing to do, but he or she may do it.

Just as an IRA custodian is not to tell an IRA accountholder that it does not allow any withholding of federal income tax; an IRA custodian is not to tell an IRA accountholder that it must withhold the 10% penalty tax if the person is under age 59½. ♦

Rolling Funds From an IRA to a 401(k) Plan

More IRA accountholders are choosing to withdraw their IRA funds and move them to the 401(k) plan of which they are a participant. There are two ways to move these IRA funds - take an actual distribution and then make a rollover contribution into the 401(k) plan. Or, do a reverse direct rollover, by instructing the IRA custodian to send a check directly to the trustee of the 401 (k) on behalf of the IRA accountholder.

For purposes of this article, the term “401(k) plan” is used to cover all employer sponsored pension plans.

This article discusses the administrative aspects of each approach.

Approach #1. Make the Payee of the Check the IRA Accountholder.

From the IRA custodian's viewpoint, this is the most conservative approach and the simplest approach. The standard IRA rollover rules apply and the IRA accountholder must comply with these rules.

Rule #1: the individual may not have made another rollover from the same IRA in the last twelve months.

Rule #2: the individual must make his or her rollover contribution within 60 days of the distribution.

Rule #3: the individual is not allowed to roll over a required distribution.

By making the check payable to the individual, it will be up to him or her to make a rollover contribution into the 401(k) plan. The IRA custodian has no further concerns when the payee of the check is the individual. The

IRA custodian need not be concerned about whether or not the individual has met all of the rollover rules. There will be the standard reporting for an IRA distribution. The IRA custodian's preparation of the Form 1099-R will be as follows. Box 1 (gross amount) and Box 2a (taxable amount) will be completed with the same dollar amount. The reason code to be inserted in box 7 will depend on the individual's age, code “1” if he or she is under age 59½ and code “7” if he or she is over age 59½.

Approach #2. Make the Payee of the Check the Trustee of the 401(k) Plan FBO the Person (i.e. the former IRA Accountholder).

From the IRA custodian's viewpoint, this approach is not the most conservative approach and it is not the simplest approach. The IRA custodian must be willing to take on some additional work (and liability) to accommodate or help the person who is trying to move their IRA funds into a 401(k) plan.

As with Approach #1, the standard IRA rollover rules also apply to this approach. The individual may not have made another rollover from the same IRA in the last twelve months and any required distribution amount is not allowed to be sent to the 401(k) trustee.

By making the check payable to the plan trustee, the IRA custodian has some concerns. First, there will need to be a special administrative form used. The plan trustee will need to furnish a form requesting the special transfer. This form must be signed by the plan trustee saying the rollover contribution will be accepted on behalf of the former IRA accountholder. Second, the IRA custodian will want to determine that the plan trustee properly endorsed the check.

There will NOT be the standard reporting for an IRA distribution.

IRA custodian's preparation of the Form 1099-R will be as follows. Box 1 (gross amount) and Box 2a (taxable amount) are NOT be completed with the same dollar amount. Box 1 (gross amount) will be completed with the dollar amount, Box 2a (taxable amount) will be completed with a 0.00 and the reason code will be a “G” to be inserted in box 7.

Note, Approach #1 is much simpler and there is much less chance that the IRA custodian will make a problem

**Understanding the Interplay,
Continued from page 5**

for itself by trying to help a customer. Each IRA custodian will need to decide to what degree it is willing to accommodate an IRA accountholder's request to have his or her IRA funds sent directly to the 401(k) plan.

Additional Discussion

In most business transactions the various parties have different interests. This is true also when an IRA accountholder wishes to move his or her IRA funds to a 401(k) plan. The IRA custodian wishes to be helpful, but not so helpful that the IRA custodian incurs problems.

The federal income tax rules have been changed so that a person is now authorized to rollover his or her traditional IRA distribution to a 401(k) plan regardless if the IRA funds had originated from an earlier rollover from an employer sponsored plan.

The 401(k) plan must be written to accept such rollover contributions. Nondeductible or nontaxable traditional IRA funds are ineligible to be rolled over into the 401(k) or other employer sponsored plan. The standard once per 12-month rule and 60-day rule must be complied with.

A rollover from a Roth IRA to a 401(k) plan and a Designated Roth account or any other employer retirement is NOT allowed under existing law.

By definition a direct rollover occurs when funds from certain employer sponsored pension plans are directly transferred into another employer sponsored plan or an IRA. Note the funds must come from an employer sponsored plan. They cannot come from an IRA and technically be a direct rollover. However, the IRS in its Guide to Form 1099-R Distribution Codes states, "Use Code G for a direct rollover from a qualified plan, section 403(b) plan or a governmental section 457(b) plan to an eligible retirement plan (another qualified plan, section 403(b) plan or a governmental section 457(b) plan, or an IRA. Also use Code G for IRA rollover contributions to an accepting employer plan and for IRRs. An IRRs is an 'in-plan Roth rollover.' Note: Do not use Code G for a direct rollover from a Designated Roth account to a Roth IRA. Use Code H." Note that the IRS uses the description, "use Code G for IRA rollover contributions. The IRS does not use "direct rollover."

If the IRA custodian makes the check payable to the individual, he or she may endorse this check to the plan

trustee. For example, "payable to the order of the plan trustee fbo of (name of the participant) of ABC's 401(k) Plan."

There is no tax law requiring an IRA custodian to issue the check to the plan trustee. It can choose to accommodate the IRA accountholder if it wishes to do so. The IRA custodian should consider charging a special fee of this special service. ♦

**Be Aware of Distributions and
Rollovers Around January 1st for
Individuals Age 70^{1/2} and Older**

Situation #1

Jane Doe closed her IRA at IRA custodian #1 on January 5, 2012, by taking a lump sum distribution of \$38,000. Jane Doe's date of birth is September 10, 1938. She should attain age 74 in 2012. Jane goes to IRA custodian #2 and wishes to rollover the \$38,000. May she do this?

No. A IRA accountholder is ineligible to roll over a required distribution. Even though Jane may prefer to wait until November or December 2012 to take her RMD the tax rules do not allow her to wait. The law is written that when a person is subject to the RMD rules any distribution he or she takes is considered to be his or her RMD until that amount has been satisfied. Jane's RMD for 2012 is \$1596.64 (\$38,000/23.8). She is eligible to roll over \$36,403.36. If she would roll over the \$38,000, there would be an excess contribution of \$1,596.64.

Situation #2

Jane Doe closed her IRA at IRA custodian #1 on December 23, 2011 by taking a lump sum distribution of \$38,000. Jane Doe's date of birth is September 10, 1938. She attained age 73 in 2011 and should attain age 74 in 2012. She took her 2011 RMD in early December of 2011. Jane goes to IRA custodian #2 on January 31 to rollover the \$38,000. May she do this?

The IRS has not expressly addressed this situation. She could argue that she satisfied her RMD for 2011 so the

**Be Aware,
Continued from page 6**

entire distribution of \$38,000 is entitled to be rolled over. Due to the fact that the IRS has not expressly addressed this situation, CWF would suggest the more conservative approach is, she must satisfy her RMD for 2012 before rolling over any portion of the distribution. In this case, IRA custodian #2 would calculate her RMD for 2012 since the RMD rules require an adjustment to the December 31 balance when there is an outstanding rollover. Therefore, Jane's RMD for 2012 is \$1596.64 (\$38,000/23.8). She is eligible to roll over \$36,403.36. ♦

Returning HSA Contributions to an Employer

The general rule is that the HSA custodian has no authority or right to return HSA contributions as made by an employer to that employer. Once the funds are within the HSA they now are held on account of the HSA owner.

Employers will make mistakes with respect to HSA contributions. For example, an employer adopts the policy that it contributes \$250 each month into a eligible employee's HSA. If the person is eligible for all 12 months, then the employer will contribute \$3,000 per year. Assume that Jane Doe quit work on October 30, 2011, but the employer continued to send to the HSA custodian \$250 for Jane's HSA for November and December. If the employer asks the HSA custodian to return the \$500, may the HSA custodian do so?

No. The IRS in Q & A 25 of Notice 2008-59 very clearly states that the HSA custodian may not return the \$500 as the employer did not contribute the maximum single limit of \$3,050.

The purpose of this article is to discuss the two situations where an HSA custodian is required to return an employer's mistaken HSA contribution to the employer upon the employer's request and furnishing the necessary documentation.

In Notice 2008-59 the IRS in Q & A's 23 and 24 authorized two situations where an excess contribution may be returned by the HSA custodian to the employer. First, if the employee was never eligible for an HSA contribution, then the employer's contribution may be returned to the employer. Second, if the employer con-

tributes more than the applicable annual limit (\$3,050 for single coverage and \$6,150 for family coverage, as adjusted by any applicable catch-up amount, then the amount in excess of the annual limit may be returned to the employer.

The IRS in writing its instructions for HSA forms 5498-SA and 1099-SA has adopted the approach that the HSA custodian is NOT to report either the contribution or the distribution when the employer has contributed more than the applicable annual limit.

Technically, the excess contribution is to be adjusted for earnings or losses. In most situations, the amount of earnings or losses associated with HSA excess contributions is minimal.

Computer systems may not handle these employer excess contribution situations well. The same is true for mistaken distributions. Such transactions are not to be reported on the 5498-SA or 1099-SA forms.

Such transactions should, of course, still be reported on the statement listing all transactions. You may need to use a "transfer" transaction code to have these transactions be non-reportable for IRS forms purposes until the software is improved.

An employer who makes a mistaken contribution which cannot be returned by the HSA custodian to the employer will need to discuss this situation with its tax accountant. This contribution will need to be treated and reported as additional income on the employee's Form W-2. ♦

Enrollment in Medicare May Cause Excess HSA Contributions

A husband and wife were both covered by a HDHP in 2011. He contributed \$7,150 to his HSA for 2011. However, he enrolled in Medicare in March of 2011. They are aware that there is an excess contribution which needs to be corrected.

The wife presently does not have an HSA and did not have one in 2011. Commencing in March of 2011 she became covered by a Single HDHP. Prior to that time both of them were covered by a Family HDHP.

She may establish an HSA in 2012 for 2011 and make contributions as long as she does so by April 17, 2012.

Questions

1. What is his maximum HSA contribution for 2011?
2. What amount must be withdrawn from his HSA as an excess contribution?
3. What is her maximum HSA contribution for 2011?

Answers/Discussion

1. His maximum contribution is $2/12 \times \$7,150$ or \$1,191.67.
2. The excess contribution in his HSA is \$5,958.33. ($\$7,150 - \$1,191.67$). This amount should be adjusted for earnings/losses.
3. Her maximum contribution is: \$3,541.67. ($\$1,000 + \$2,541.67 (10/12 \times \$3,050)$).
4. Their combined contribution amount is \$4,733.34. \$4,733.34 ($\$1,191.67 + \$3,541.67$) Please inform me if I do not understand the factual situation correctly.

Once a person enrolls in Medicare, he or she no longer can make any "annual" contributions to his or her HSA. This would include carry-back contributions for the prior tax year. This rule does not prohibit rollover or transfer contributions. ♦

Special HSA Eligibility Rule For Indians

The general HSA rule is that a person is ineligible for an HSA if he or she is covered by a health plan other than a qualifying HDHP.

Within Notice 2012-14 the IRS creates a new special HSA eligibility rule for Indians who are eligible to participate in the Indian Health Service. The Indian Health Service (IHS) is a division within the U.S. Department of Health and Human Services.

This Notice adopts the rule that an individual who is eligible to receive medical services at an IHS facility will still be able to make contributions to his or her HSA as long as he or she actually received any services from or at the IHS facility during the three previous months. Even if the person has received some services, he or she may still be HSA eligible if such services are ones that does not make a person HSA ineligible – e.g. dental and vision care, and receipt of preventive care such as well-baby visits, immunization, weight-loss and tobacco cessation programs.

One does wonder why the IRS is willing to create this new exceptions. Will participants of other health plans be able to also make HSA contributions?

Note the IRS does not discuss how a person would calculate the permissible contribution amount.

The IRS is asking for public comments on this new eligibility rule. Such comments must be submitted by April 3, 2012. Written comments may be mailed or delivered. And such comments may be sent by email. ♦