



# THE Pension Digest

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**Collin W. Fritz and  
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## Establishing a SEP

As with any tax procedure, there are certain actions which must be taken in order for any business, including a one person business, to establish a Simplified Employee Pension Plan (SEP). If not properly established, the expected tax benefits will not be realized.

What must be done by the business?

First, there must be written plan agreement. Most businesses will choose to complete and execute the IRA model Form 5305-SEP, Simplified Employee Pension–Individual Retirement Accounts contribution Agreement. See page 8.

A business may set up its SEP for a year (e.g. 2012) as late as the due date including extensions for the tax year. So, a business may establish a SEP for 2012 on June 20, 2013, if it has an extension for its 2012 tax return.

The maximum contribution for 2012 is the lesser of: 25% of a person's qualifying compensation or \$50,000.

Second, provide certain information to each employee, if any. If no employees, then this information is not furnished. If there are employees, in general, they will be furnished a copy of the Form 5305-SEP and its instructions.

What must be done by each individual?

Third, each eligible employee, including the individual who is the sole proprietor or sole shareholder, must establish a SEP-IRA. A SEP-IRA is a standard traditional IRA to which a SEP contribution has been or will be made. See the stan-

dard traditional IRA application on page 8. The tax laws do not require a person who has an existing traditional IRA to set up a new SEP-IRA. Some financial institutions choose for administrative reasons to require a separate IRA, but the tax laws do not require it. If any employee would fail to have a SEP-IRA so the business did not make a SEP contribution for such employee, there would be no SEP and the expected tax benefits would not apply for the sponsoring business and other employees.

In summary, establishing a SEP is easy as long as the two steps above are completed for a one person business and the three steps are completed for a business with employees. ♦

## Deadlines for 2012 5498 Forms

This newsletter contains a number of articles discussing the 2012 IRS Form 5498. The chart below lists the various form types and due dates. We also discuss the completing of the 2012 Form 5498-SA. See page 8.

<u>Type of Account</u>	<u>Type of Form</u>	<u>Due to Owner</u>	<u>Due to IRS</u>
Traditional	5498	5/31/13	5/31/13
Roth	5498	5/31/13	5/31/13
HSA	5498-SA	5/31/13	5/31/13
CESA	5498-ESA	4/30/13	5/31/13

## IRA Checks and Securities Litigation

More and more financial institutions are being presented with the following situation. Jane Doe walks into your financial institution on March 22, 2013; she has in her possession a check for \$149. The payee on the check is "Jane Doe's IRA". The check has been issued by a litigation fund administrator relating to a class action lawsuit stemming from actions by the SEC against various mutual funds for "late trading" activities.

The check is dated March 1, 2013. She wants to put this check into an IRA. She presently does not have an IRA with your financial institution, but she wants to establish one.

May she contribute this \$149 to her IRA? Will her contribution be a rollover? Will her contribution be a non-reportable transfer?

A refresher on some basic IRA laws.

1. In order to have an IRA, there must be a written IRA plan agreement signed by both the individual and the financial institution serving as the IRA custodian or trustee. A bank or a similar financial institution must act as the IRA custodian or trustee.
2. IRA funds can move between IRAs either by a transfer or by a distribution and then a rollover contribution.

Many times when there is a fund litigation class action lawsuit, the individual will be furnished with 4-8 pages of discussion. This discussion many times will discuss the special issues if the funds were IRA funds. These materials should be read.

The litigation administrator should either make the check payable to a known financial institution acting as the IRA custodian for a specific person's IRA or the check should be made payable to the person. However, in many instances the check is not made payable in either of these ways. Rather, it is issued to Jane Doe's IRA. Either the fund administrator did not know who was the IRA custodian of her IRA or the fund administrator has tried to take a short-cut. Because of the 10% withholding rule a fund administrator is generally not going to issue the check in the individual's name as the individual has not instructed in writing to have no withholding.

Does Jane Doe know or recall which IRA held the involved investment and which institution was the IRA custodian? Does she still have an IRA with such financial institution? If so, the most conservative administrative approach is to tell her she needs to furnish the check to this institution for deposit. That institution will need to decide if they will negotiate the check as is or whether it will require the litigation administrator to issue it a revised check as the IRA custodian.

IRA funds may be transferred from one IRA to another IRA. There needs to be documentation supporting the transfer. At the present time there is no such documentation. Jane Doe could furnish this check to the prior custodian to be deposited into her IRA and then the funds could be transferred to your institution.

A practical solution may be to have her endorse the check and put the funds in her checking account and then have her make a roll over contribution. She would do this even though she is not the named payee. The fund administrator might contest the endorsement, but this is doubtful. She would need to explain the rollover on her 2013 federal income tax return. In order for her to make a rollover contribution she must have been paid funds from her IRA, and she must comply with the once per year rule, the 60 day rule and the rule that she cannot rollover any RMD.

In summary, some litigation administrators do not prepare the litigation settlement checks regarding IRA funds correctly. This may be done intentionally. IRA custodians are then faced with the situation as to how best to service such customers. If the individual chooses to use the rollover method, be sure to have the individual certify that he or she has complied with the rollover rules. As in any transfer situation, this approach should be used only if the two financial institutions have signed a transfer form. ♦

## Helping IRA Beneficiary(ies) Who Have Missed RMDs

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Many individuals procrastinate; some a little, some a lot. Sometimes an inheriting IRA beneficiary fails to instruct the IRA custodian how he or she is going to comply with the RMD beneficiary rules as soon as he or she should. This can be the case even when the IRA custodian has furnished the beneficiary with a beneficiary RMD notice.

**Situation.** John Doe died in 2010 at the age of 57. He was an IRA account holder and the balance in his IRA at his passing was \$30,000. His son Mark was his IRA beneficiary. He was born in 1980. There was no RMD for 2010 since John had died prior to his required beginning date. The IRS adopted the rule in the 2002 final RMD regulations that a nonspouse beneficiary will use the life distribution rule to close the inherited IRA unless he or she expressly elects to use the five year rule. The balance of the inherited IRA as of 12/31/11 was \$30,450 and the balance as of 12/31/12 was \$30,750.

The 50% tax is an annual tax and applies to each missed deadline.

The missed RMD for 2011 was \$605.37 ( $\$30,450/50.3$ ). The first deadline was 12/31/11. The second missed deadline was 12/31/12. The \$605.37 is owed for both years. The missed RMD for 2012 was \$623.73 ( $\$33,450/49.3$ ). The missed deadline was 12/31/12. What approaches may Mark consider taking with respect to his inherited IRA?

**Approach #1A.** He will stay with the life distribution rule. He will pay the 50% tax owing for the 2011 and 2012 missed RMDs and then make sure he withdraws the 2013 RMD amount and the amounts for subsequent years by the appropriate deadlines. Under this approach, he does want to withdraw the missed RMD's as soon as possible. Mark will still be able to stretch out distributions over the remaining 48.1 years and realize the associated tax benefits.

**Approach #1B.** He will stay with the life distribution rule, but he would request the IRS to waive assessing the 50% tax for 2011 and 2012. He or his tax advisor needs to present the IRS with a valid reason why it would be fair to waive the tax. In some cases, the beneficiary may argue that the IRA custodian or his

accountant advised him incorrectly. This does not appear to be the current case. Mark was furnished RMD notices indicating the amount he needs to withdraw and the appropriate deadline for doing so.

Under this approach, Mark does want to withdraw the missed RMDs as soon as possible. He will still be able to stretch out distributions over the remaining 48.1 years and realize the associated tax benefits.

**Approach #3.** He would request from the IRS that he be able to switch to the 5-year rule from the life distribution rule. He would do this by filing an amended tax return for 2011 and make his request. If the IRS grants his request, then he will not owe the 50% tax for 2011 and 2012. However, he will then be required to close the inherited IRA by 12/31/15.

In summary, Mark will need to instruct the IRA custodian whether or not the IRS will allow him to switch to the five year rule. Otherwise, the IRA custodian should continue to make its RMD calculations under the life distribution rule.

Mark must act on the advice of his tax advisor. If you were Mark, what would you do? Different people will adopt different approaches. Different situations may result in a different approach. ♦

## Responding to a Tax Preparer's Request to Furnish a Form 1099-R

Some tax return preparers can be demanding. This can be the case even when they are wrong. In such case, the custodian will need to explain that it has not made a mistake and so the requested Form 1099-R will not be prepared.

A Form 1099-R is not prepared to report a transfer distribution. However, there will be times when a tax preparer or accountant believes that the IRA custodian needs to prepare a 2012 Form 1099-R because he or she believes the transaction was distribution/rollover and not a transfer.

In order for there to be a rollover, there must be a distribution. If the tax preparer believes a 2012 Form 1099-R must be prepared, then he or she will need to furnish evidence that a distribution was made to John Doe. Was John Doe the payee of the check?

If the IRA custodian's records show that there was nonreportable transfer, then the tax preparer must be so informed. If both financial institutions have signed a transfer form and both institutions have a signed copy in their possession, the matter is settled as there is no question. However, where questions arise is if one of the two institutions has not signed the transfer form.

In a current situation, John Doe and Institution #1 signed the transfer form. It was furnished to Edward Jones. The funds were to be transferred to an IRA with Edward Jones. John Doe also signed a distribution form indicating the funds were to be transferred. Edward Jones furnish John Doe and Institution #1 with a copy of their own transfer form. A representative of Edward Jones did not sign either of the transfer forms. The check was prepared and issued to Edward Jones as IRA custodian for John Doe's IRA. This check was mailed to Edward Jones.

Page 5 of the IRS instructions for preparing a 2012 Form 1099-R are quite clear. A transfer from one IRA to another IRA is not to be reported on a Form 1099-R. In order for there to be a requirement to prepare a Form 1099-R for John Doe, John Doe would have had to negotiate the check and this did not happen. The IRA funds were transferred.

The IRA custodian should not prepare a Form 1099-R to appease the tax preparer as no distribution was made to John Doe. ♦

## FDIC Furnishes HSA Insurance Coverage Guidance

The FDIC provides insurance on various types or categories of deposits, up to \$250,000 per category. HSA deposit are NOT aggregated with IRA deposits.

For FDIC insurance purposes, an HSA will be insured under the Revocable Trust Account category or under the Single Deposit category.

Set forth below is the FDIC's discussion as found in their brochure, "Your Insured Deposits" (Comprehensive Guide) on pages 11-12.

### Coverage and Requirements for Revocable Trust Accounts

**In general, the owner of a revocable trust account is insured up to \$250,000 for each unique beneficiary, if all of the following requirements are met:**

1. The account title at the bank must indicate that the account is held pursuant to a trust relationship. This rule can be met by using the terms payable on death (or POD), in trust for (or ITF), as trustee for (or ATF), living trust, family trust, or any similar language, including simply having the word "trust" in the account title. Account title includes information contained in the bank's electronic deposit account records.
2. The beneficiaries must be named in either the deposit account records of the bank (for informal revocable trusts) or identified in the formal revocable trust document. For a formal trust agreement, it is acceptable for the trust to use language such as "my issue" or other commonly used legal terms to describe the designated beneficiaries, provided the specific names and number of eligible beneficiaries can be determined.
3. To qualify as an eligible beneficiary, the beneficiary must be a living person, a charity or a non-profit organization. If a charity or non-profit organization is named as beneficiary, it must qualify as such under Internal Revenue Service (IRS) regulations.

An account must meet all of the above requirements to be insured under the revocable trust ownership category. Typically, if any of the above requirements are not met, the entire amount in the account, or the portion of the account that does not qualify, is added to the owner's other single accounts, if any, at the same bank and insured up to \$250,000. If the trust has multiple co-owners, each owner's share of the non-qualifying amount would be treated as his or her single ownership account.

CWF Observation. There is no express discussion that an HSA may be or will be insured under this Revocable Trust category. However, set forth on the next page is the guidance recently furnished to CWF by the FDIC.



*“If a depositor opens an HSA and names beneficiaries either in the HSA agreement or in the bank’s records, the FDIC would insure the deposit under the Revocable Trust Account ownership category. If a depositor opens an HSA and does not name any beneficiaries, the FDIC would insure the deposit under the Single Account ownership category. The identification of a deposit as an HSA, such as John Smith’s HSA, is sufficient for titling the deposit to be eligible for Single Account or Revocable Trust Account coverage, depending on whether eligible beneficiaries are named.” ♦*

## Final Review 2012 Form 5498

2012 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-0047		IRA Contribution Information
TRUSTEE'S or ISSUER'S name, street address, city, state, and ZIP code		2012		
PARTICIPANT'S social security number		1 IRA contributions (other than amounts in boxes 2-4, 8-10, 13a, and 14a)	Form 5498	Copy A For Internal Revenue Service Center File with Form 1096.
PARTICIPANT'S name		2 Rollover contributions	4 Rollover contributions	
Street address (including apt. no.)		3 Roth IRA conversion amount	5 Fair market value of account	For Privacy Act and Paperwork Reduction Act Notice, see the 2012 General Instructions for Certain Information Returns.
City, state, and ZIP code		6 Life insurance cost included in box 1	7 IRA <input type="checkbox"/> SEP <input type="checkbox"/> SIMPLE <input type="checkbox"/> Both IRA <input type="checkbox"/>	
Account number (see instructions)		8 SEP contributions	9 SIMPLE contributions	
		10 Both IRA contributions	11 Check if RMD for 2013	
		12a RMD date	12b RMD amount	
		13a Postponed contribution	13b Year	13c Code
		14a Repayments	14b Code	

- 1. On the bottom left** there is an “Account Number” box. The IRA custodian is required to insert an account number in this box when filing more than one Form 5498 for the same person. If your institution wants to earn some bonus points with the IRS, you will complete this box even though it is not required. A unique number should be used. Using such a number helps the IRS to process corrected information accurately. The account number may be a checking or savings account number or some other unique number with respect to an individual. The number must not appear anywhere else on the form (i.e. it cannot be the social security number).
- 2. In Box 7** only one of the 4 boxes must be checked to indicate the type of IRA. A person who has a traditional IRA, SEP IRA and Roth IRA would need to be furnished three 5498 forms.

**3. Box 1. IRA Contributions** (other than amounts in boxes 2-4, 8-10, 13a and 14a). Enter the amount of the annual contributions made on or after January 1, 2012 through April 15, 2013 as designated for 2012. The IRA custodian is to report the gross amount of the annual contributions even if such contributions are excess contributions, or will be later recharacterized. These are still to be reported. A traditional IRA contribution, which is not properly reported in one of the other traditional IRA boxes as discussed below, is to be reported in box 1. For example, if a person tries to roll over \$28,000, but does so on day 70 and the IRA custodian learns of this fact prior to filing the current year’s Form 5498, then the IRA custodian must report this \$28,000 in box 1. This same procedure would apply if somehow non-IRA funds had been mistakenly transferred into an IRA.

**4. Box 2. Rollover Contributions.** Enter the amount of the rollover contributions made on or after January 1, 2012 through December 31, 2012. Made means received by the traditional IRA custodian. Also, enter those contributions which are treated as a rollover contribution (i.e. direct rollover).

A rollover may either be an indirect rollover or a direct rollover.

An indirect rollover means the paying plan (could be an IRA or an employer plan) issues the distribution check to the individual who then makes a rollover contribution by the 60 day deadline. A 60 day indirect rollover may occur between two traditional IRAs, two SEP-IRAs, or between a traditional IRA and a SEP-IRA or vice versa.

Remember that nonspouse IRA beneficiaries are ineligible to roll over a distribution from one inherited IRA and redeposit it into another inherited IRA.

A direct rollover occurs when an employer plan issues the check to the IRA custodian on behalf of the individual. By definition, a direct rollover cannot occur between IRAs. Employer plan means a qualified plan, section 403(b) plan or a governmental section 457(b) plan. The funds attributable to a nonspouse beneficiary of such plans are eligible to be directly rollover to an inherited IRA and would be reported in Box 2.

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Continued from page 5

5. **Box 3. Roth IRA Conversion Amount.** This box will be completed when a conversion contribution is made to a Roth IRA.
6. **Box 4. Recharacterized Contributions.** The IRS instructions are very brief, "Enter any amounts recharacterized plus earnings from one type of IRA to another." If a person had made either an annual contribution or a conversion contribution to a Roth IRA in either 2011 and/or 2012, he or she may elect to recharacterize it as adjusted by earnings or losses to be traditional IRA contribution in 2012. The total amount recharacterized is to be reported in box 4. Although the IRS instructions use the term, "plus earnings", the IRS should use the term, "plus or minus earnings or losses."
7. **Box 5. Fair Market Value of Account.** The IRS instructions for this box are also very brief, "Enter the FMV of the account on December 31."

The IRS added a caution to self-directed and trust IRAs as follows: "Trustees and custodians are responsible for ensuring that all IRA assets (including those not traded on established markets or with otherwise readily determinable market value) are valued annually at their fair market value."

The instruction to report the FMV as of December 31 applies whether there is a living IRA accountholder or an inheriting IRA beneficiary.

If the IRA accountholder or inheriting beneficiary is alive as of December 31, the individual closed his or her IRA during the year by taking a total distribution and he or she made no "reportable contribution", then the IRA custodian is not required to prepare and file the Form 5498. **However, if the IRA accountholder or inheriting beneficiary died during the year, the IRA custodian will need to prepare a final Form 5498 for the deceased IRA accountholder or inheriting beneficiary as discussed below.**

With respect to a deceased accountholder or a deceased inheriting IRA beneficiary, the IRS gives the IRA custodian two options. Option #1 - report the FMV as of the date of death. Option #2 - report the FMV as of the end of the year in which the decedent died. This alternate value will usually be zero because the IRA custodian will be reporting the end of year value on the Form 5498's for the beneficiary or beneficiaries. If Option #2 is used, the IRA custo-

dian must inform the executor or administrator of the decedent's estate of his or her right to ask for the FMV as of the date of death.

If the IRA custodian does not learn of the individual's death until after the filing deadline for the Form 5498 (i.e May 31), then it is not required to prepare a corrected Form 5498. However, an IRA custodian must still furnish the FMV as of the date of death if requested to do so.

8. **Box 6. Life Insurance cost included in box 1.** An IRA custodian will normally leave this box blank or will insert a 0.00 since it is only to be completed if there was a contribution to an IRA endowment contract as sold by an insurance company a long time ago.
9. **Box 8. SEP Contributions.** Any SEP contributions made to the IRA custodian during 2012 are to be reported in box 8. Such contributions could have been for 2011 or 2012.
10. **Box 9. SIMPLE Contributions.** Any SIMPLE-IRA contributions made during 2012 are to be reported in box 9. Such contribution could have been for 2011 or 2012.
11. **Box 10. Roth IRA Contributions.** Any Roth IRA contributions for 2012 are to be reported in box 10 as long as made between January 1, 2012 and April 15, 2013.
12. **Box 11. Check if RMD for 2013.** An IRA custodian is required to check this box if the IRA accountholder attains or would attain age 70½ or older during 2013. The instructions do not discuss whether or not this box is to be checked for an inheriting traditional IRA beneficiary. It should not be checked for an inherited IRA. Completing this box is necessary only if the IRA custodian is required to prepare a 2012 Form 5498 for a person. This box is not checked with respect to an individual who died during 2012 and who would have attained age 70½ or older during 2013 had he or she lived.
13. **Boxes 12a (RMD date) and 12b (RMD Amount).** An IRA custodian's use of these two boxes is optional, it is not mandatory.

Under current IRS procedures, the IRS does not require the traditional IRA custodian to furnish it

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with the RMD amount. The law is unsettled whether or not the IRS has the legal authority to require that an IRA custodian furnish the RMD amount. Since the IRS would like to be furnished this information, the IRS has added boxes 12a and 12b to the Form 5498.

The approach adopted by the IRS is that a traditional IRA custodian by completing boxes 11, 12a and 12b on the Form 5498 and furnishing it to the IRA accountholder will meet the requirement that it must furnish a RMD Notice by January 31. The IRS instructions do permit the IRA custodian to furnish a separate Form 5498 with the only information being furnished is the information for boxes 11, 12a and 12b.

**14. Box 13a. Postponed contribution(s).** Since we are discussing completing the Form 5498 for a traditional IRA, we will discuss what needs to be done for postponed contributions to a traditional IRA. The individual will instruct you on an IRA contribution form the “prior” year or years for which he or she is making the postponed contribution(s). The individual must designate the IRA contribution for a prior year to claim it as a deduction on the income tax year.

Postponed contributions may be made by individuals who have served in a combat zone or hazardous duty area or individuals who are “affected taxpayers” due to federally designated disasters.

If the IRA custodian will report the contribution made after April 15 and the individual designates a contribution for a prior year, then the IRA custodian must prepare either (1) a Form 5498 for the year for which the contribution was made or (2) on a Form 5498 for a subsequent year.

Under approach #1, the IRA custodian may choose to report the contribution for the year it is made. For example, if an individual in September of 2012 designated a contribution of \$5,000 to a traditional IRA for 2010. The IRA custodian could choose to prepare a 2010 Form 5498 and report the \$5,000 contribution in box 1. If the IRA custodian had not prepared a 2010 Form 5498 for this individual, the IRA custodian then would prepare an original 2010 Form 5498. If the IRA custodian had previously pre-

pared a 2010 Form 5498 for this individual, the IRA custodian then would prepare a “corrected” 2010 Form 5498.

Under approach #2, if the the IRA custodian is furnished a contribution after April 15, the IRA custodian may choose to report it on that year’s Form 5498. The amount of the contribution must be reported in box 13a and the year for which the contribution was made in box 13b and in box 13c the applicable code as follows:

AF - Allied Force

EF - Enduring Freedom or

IF - Iraqi Freedom

FD - Affected taxpayers of designated disaster area.

**Definition.** An individual 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 the prior year. The period of time is the time the individual was in the designated zone or area plus at least 180 days.

**15. Box 14a. Repayments.** A traditional IRA accountholder who has taken a distribution under special disaster rules or who has taken a qualified reservist distribution is eligible to repay the distribution even though such repayment does not qualify as a rollover. Enter the amount of the repayment(s).

**Box 14b. Code.** Enter the applicable code for the type repayment(s):

QR - repayment to a qualified reservist

DD - repayment of a federally designated disaster distribution.

Note that repayments only have one reporting procedure whereas postponed contributions have two reporting procedures.

**16. Duty To Prepare/Furnish Corrected Form 5498.** An IRA custodian is required to prepare a corrected form 5498 as soon as possible after it learns there is an error on the original form as filed. The IRS furnishes the following example. “If you reported as rollover contributions in box 2, and you later discover that part of the contribution was not eligible

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to be rolled over and was, therefore, a regular contribution that should have been reported in box 1 (even if the amount exceeds the regular contribution limit), you must file a corrected For 5498. ♦

## Completing the 2012 Form 5498-SA

2727 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-0499	
TRUSTEE'S name, street address, city, state, and ZIP code		1 Employee or self-employed person's Archer MSA contributions made in 2012 and 2013 for 2012	2012 Form 5498-SA HSA, Archer MSA, or Medicare Advantage MSA Information
2 Total contributions made in 2012		\$	
3 Total HSA or Archer MSA contributions made in 2013 for 2012		\$	Copy A For Internal Revenue Service Center File with Form 1066, For Privacy Act and Paperwork Reduction Act Notice, see the 2012 General Instructions for Certain Information Returns.
4 Rollover contributions		\$	
5 Fair market value of HSA, Archer MSA, or MA MSA		\$	
6 HSA <input type="checkbox"/> Archer MSA <input type="checkbox"/> MA MSA <input type="checkbox"/>			
Street address (including apt. no.)			
City, state, and ZIP code			
Account number (see instructions)			

Form 5498-SA Cat. No. 38467V Department of the Treasury - Internal Revenue Service  
Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

Completing the Form 5498-SA is, for the most part, self evident. This form is used either to report contribution activity to an HSA or to one of the two types of MSAs. This article discusses completing the form for HSA contributions. It does not discuss completing the form for MSA purposes.

Set forth below are the IRS instructions as modified by CWF.

1. Statements to participants. If you are required to file Form 5498-SA, you must provide a statement to the participant (generally Copy B) by May 31, 2012. You may, but you are not required to, provide participants with a statement of the December 31, 2012, fair market value.
2. Box 1 will not need to be completed for an HSA, since it applies only to MSA contributions.
3. Box 2 is to be completed with the total of HSA contributions made in 2012. Such contributions could have been for 2011 or 2012.
4. Box 3 is to be completed with the total of HSA contributions made in 2013 for 2012.
5. Box 4 is to be completed with the total of rollover contributions as originating from an Archer MSA, or an HSA to an HSA, as received by the HSA custodian during 2012.
6. Box 5 is to be completed with the fair market value of the HSA on December 31, 2012.
7. Box 6 – check the “HSA” box. ♦

Form <b>5305-SEP</b> (Rev. December 2004) Department of the Treasury Internal Revenue Service	<b>Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement</b> (Under section 408(k) of the Internal Revenue Code)	OMB No. 1545-0499 Do not file with the Internal Revenue Service
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(Name of employee) \_\_\_\_\_ makes the following agreement under section 408(k) of the Internal Revenue Code and the instructions to this form.

**Article I—Eligibility Requirements** (check applicable boxes—see instructions)  
The employer agrees to provide discretionary contributions in each calendar year to the individual retirement account or individual retirement annuity (IRA) of all employees who are at least \_\_\_\_\_ years old (not to exceed 21 years old) and have performed services for the employer in at least \_\_\_\_\_ years (not to exceed 3 years) of the immediately preceding 5 years. This simplified employee pension (SEP) ☐ includes ☐ does not include employees covered under a collective bargaining agreement, ☐ includes ☐ does not include certain nonresident aliens, and ☐ includes ☐ does not include employees whose total compensation during the year is less than \$450\*.

**Article II—SEP Requirements** (see instructions)  
The employer agrees that contributions made on behalf of each eligible employee will be:  
A. Based only on the first \$205,000\* of compensation.  
B. The same percentage of compensation for every employee.  
C. Limited annually to the smaller of \$41,000\* or 25% of compensation.  
D. Paid to the employee's IRA trustee, custodian, or insurance company (for an annuity contract).

Employer's signature and date \_\_\_\_\_ Name and title \_\_\_\_\_

**Instructions**  
Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**  
Form 5305-SEP (Model SEP) is used by an employer to make an agreement to provide benefits to all eligible employees under a simplified employee pension (SEP) described in section 408(k).

Do not file Form 5305-SEP with the IRS. Instead, keep it with your records.

For more information on SEPs and IRAs, see Pub. 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), and Pub. 590, Individual Retirement Arrangements (IRAs).

**Instructions to the Employer**  
**Simplified employee pension.** A SEP is a written arrangement (a plan) that provides you with an easy way to make contributions toward your employee's retirement income. Under a SEP, you can contribute to an employee's traditional individual retirement account or annuity (traditional IRA). You make contributions directly to an IRA set up by or for each employee with a bank, insurance company, or other qualified financial institution. When using Form 5305-SEP to establish a SEP, the IRA must be a Model traditional IRA established on an IRA form or a master or prototype traditional IRA for which the IRS has issued a favorable opinion letter. You may not make SEP contributions to a Roth IRA or a SIMPLE IRA. Making the agreement on Form 5305-SEP does not establish an employer IRA described in section 408(c).

**When not to use Form 5305-SEP.** Do not use this form if you:  
1. Currently maintain any other qualified retirement plan. This does not prevent you from maintaining another SEP.  
2. Have any eligible employees for whom IRAs have not been established.  
3. Use the services of leased employees (described in section 414(n)).  
4. Are a member of an affiliated service group (described in section 414(m)), a controlled group of corporations (described in section 414(b)), or trades or businesses under common control (described in sections 414(c) and 414(d)), unless all eligible employees of all the members of such groups, trades, or businesses participate in the SEP.  
5. Will not pay the cost of the SEP contributions. Do not use Form 5305-SEP for a SEP that provides for elective employee contributions even if the contributions are made under a salary reduction agreement. Use Form 5305A-SEP, or a nonmodel SEP. Note, SEPs permitting elective deferrals cannot be established after 1996.

**Eligible employees.** All eligible employees must be allowed to participate in the SEP. An eligible employee is any employee who: (1) is at least 21 years old, and (2) has performed "service" for you in at least 3 of the immediately preceding 5 years. You can establish less restrictive eligibility requirements, but not more restrictive ones.

Service is any work performed for you for any period of time, however short. If you are a member of an affiliated service group, a controlled group of corporations, or trades or businesses under common control, service includes any work performed for any period of time for any other member of such group, trades, or businesses.

**Excludable employees.** The following employees do not have to be covered by the SEP: (1) employees covered by a collective bargaining agreement whose retirement benefits were bargained for in good faith by you and their union, (2) nonresident alien employees who did not earn U.S. source income from you, and (3) employees who received less than \$450\* in compensation during the year.

**Contribution limits.** You may make an annual contribution of up to 25% of the employee's compensation or \$41,000, whichever is less. Compensation for this purpose, does not include employer contributions to the SEP or the employee's compensation in excess of \$205,000\*. If you also maintain a salary reduction SEP, contributions to the two SEPs together may not exceed the smaller of \$41,000\* or 25% of compensation for any employee.

You are not required to make contributions every year, but when you do, you must contribute to the SEP-IRA of all eligible employees who actually performed services during the year of the contribution. This includes eligible employees who die or quit working before the contribution is made.

Contributions cannot discriminate in favor of highly compensated employees. Also, you may not integrate your SEP contributions with, or offset them by, other contributions made under the Federal Insurance Contributions Act (FICA).

If this SEP is intended to meet the top-heavy minimum contribution rules of section 416, but it does not cover all your employees who participate in your salary reduction SEP, you must make minimum contributions to IRAs established on behalf of those employees.

**Deduction.** Contributions. You may deduct contributions to a SEP subject to the limits of section 404(h). The SEP is maintained on a calendar year basis and contributions to the

\* For 2005 and later years, this amount is subject to annual cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS website at www.irs.gov.  
For Paperwork Reduction Act Notice, see page 2. Cat. No. 11282J Form 5305-SEP (Rev. 12-2004)

<b>IRA — Custodial Account Application — Form 5305-A</b>	
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<p><b>Revocation in accordance with the Disclosure Statement should be mailed or delivered to:</b></p> <p>Custodian's Name _____ Address _____ City _____ State _____ Zip _____ Attn: _____ Phone _____</p>	<p><b>Deposit Information</b></p> <p>Date _____ Acct./Inst. No. _____ Deposit Amt. _____ For Tax Yr. _____</p> <p><b>Type of Contribution</b>  <input type="radio"/> Regular or Spousal for: <input type="radio"/> Current Year, or <input type="radio"/> Prior Year  <input type="radio"/> Rollover for: <input type="radio"/> Regular IRA, or <input type="radio"/> Conduit IRA  <input type="radio"/> SEP for: <input type="radio"/> Current Year, or <input type="radio"/> Prior Year  <input type="radio"/> Rercharacterization  <input type="radio"/> Transfer—From Another IRA Custodian to:  <input type="radio"/> Regular/Spousal IRA, or <input type="radio"/> Conduit IRA  <input type="radio"/> Transfer—Incident to Divorce  <input type="radio"/> Transfer—Surviving Spouse Elects to Treat as Own  <input type="radio"/> Special Rollover regarding Excess Valued Valuation  <input type="radio"/> Repayment and Postponed Contributions — Complete CWF Form #54</p>
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**Depositor Information**  
Name \_\_\_\_\_  
Home Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
County \_\_\_\_\_ Date of Birth \_\_\_\_\_  
Phone: Home \_\_\_\_\_ Work \_\_\_\_\_  
SSN \_\_\_\_\_ Plan No. \_\_\_\_\_

**Adopting this plan agreement constitutes:**  
☐ The initial adoption of an IRA plan agreement, or  
☐ The amendment and restatement (i.e. replacement) of a previous IRA plan agreement referenced as follows: \_\_\_\_\_

**Designation of Beneficiary**  
Section 1.6(d) states that the individual Retirement Custodial Account (Form 5305-A) contains an important disclosure of your right to name primary and contingent beneficiary(ies). Your designation will revoke all prior IRA beneficiary designations with respect to the referenced IRA account in the event of your death you have by itself and any beneficiary in your IRA shall be paid to the following designated beneficiary or beneficiary(ies) in any primary or contingent beneficiary dies before you, then you wish to have the following result:  
☐ The interest of that deceased beneficiary shall be paid to his or her spouse who is alive or who has living issue, such issue will take by right of representation the share the deceased beneficiary would have taken if living, and persons of the same class shall share equally.  
☐ The interest of that deceased beneficiary shall be paid to his or her spouse who is alive or who has living issue, such issue will take by right of representation the share the deceased beneficiary would have taken if living, and persons of the same class shall share equally.  
☐ If you do not make the above designations, then you are deemed to have elected the "You and" selection. If you designate your spouse as your sole primary beneficiary, and he or she predeceases you, then you intend the funds to be transferred to your contingent beneficiary(ies) who shall become the primary beneficiary(ies) and the plan you agree to be named as your spouse.  
☐ You hereby designate the following individual(s) and/or entity(ies) to be your beneficiary(ies). You must check Primary or Contingent for each beneficiary. If neither is checked, the designated beneficiary will be deemed to be a primary beneficiary.

**Primary Beneficiary**  
☐ Name \_\_\_\_\_  
☐ Address \_\_\_\_\_  
☐ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
☐ SSN \_\_\_\_\_ Date of Birth \_\_\_\_\_  
☐ Share % \_\_\_\_\_ Relationship \_\_\_\_\_

**Contingent Beneficiary**  
☐ Name \_\_\_\_\_  
☐ Address \_\_\_\_\_  
☐ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
☐ SSN \_\_\_\_\_ Date of Birth \_\_\_\_\_  
☐ Share % \_\_\_\_\_ Relationship \_\_\_\_\_

**Spouse's Signature**  
☐ Name \_\_\_\_\_  
☐ Address \_\_\_\_\_  
☐ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
☐ SSN \_\_\_\_\_ Date of Birth \_\_\_\_\_  
☐ Share % \_\_\_\_\_ Relationship \_\_\_\_\_

**Signatures and Revocation Right**  
You have requested that the Custodian establish an Individual Retirement Account (IRA) for you. You certify that you are identifying neither (social security number) and other information as correct. In the event that this is a rollover contribution, you hereby irrevocably elect to treat this contribution as a rollover contribution subject to your right to revoke this IRA as discussed below. The rules and conditions governing this IRA have been contained in the application and the IRS Model Form 5305-A plan agreement as modified. You acknowledge that you are opening a rollover IRA and that if you designate a beneficiary, your IRA funds will be provided in certain special accounts as defined by us in the Custodian. You acknowledge that the Custodian has furnished you with a copy of the application, and the Individual Retirement Plan and Disclosure Statement. In addition, you have read the disclosure statement and you agree to make an initial contribution to this IRA. The Financial Disclosure Statement is attached to this application.

☐ I, The financial professional information and tables as shown on the reverse side and on page 28 of the Disclosure Statement.  
☐ I, Spouse's Signature. For example, a customized disclosure statement or computer printout.

You have the ability to terminate this IRA which you are establishing or you comply in a timely fashion with the revocation process as discussed in section 2 of the Disclosure Statement. In general, you have seven (7) calendar days in which to revoke this IRA plan agreement.

Depositor's Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Authorized Signature of Custodian \_\_\_\_\_ Date \_\_\_\_\_  
 Witness \_\_\_\_\_  
 Use only if signature of the depositor, the custodian, or the spouse is required to be witnessed.  
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