December 2013
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The Pension Digest

ALSO IN THIS ISSUE –

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

January 31, 2014 Deadlines

January 31, 2014 is the deadline for an IRA custodian/trustee to furnish (i.e. mail, email, fax or personally deliver) the following to its IRA accountholders and its inheriting IRA beneficiaries. if this deadline would be missed, the IRS may assess the fines discussed at the end of the article.

The cost of a first class stamp increases to .49 (from .46) as of January 26, 2014 (Monday so some savings may be realized by mailing by January 26.

January 31, 2014 falls on a Friday (the fifth Friday in January).

2013 Form 1099-R

Any person (accountholder or beneficiary) who received a distribution(s) from an IRA totaling more than $10 for the year must be furnished a 2013 Form 1099-R.

This FMV statement must be prepared on a per plan agreement basis. That is, if a person would have two traditional IRAs and one Roth IRA, then he or she would need to be furnished three Form 1099-Rs. In addition, there must be a Form 1099-R prepared for each applicable distribution code. For example, if a person has traditional IRA and one distribution required the use of Code "1", one the use of code "3" and one the use of Code "7", then three Form 1099-R's must be furnished.

When an individual receives more than one copy of the Form 1099-R, then it is mandatory for the IRA custodian/trustee

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Be Aware - Rolling Over an Old Keogh Plan Into an IRA May Lead to Serious Tax Problems

Your financial institution may have a customer who wants to rollover to an IRA an old Keogh that he or she has at another financial institution. Or, such customer may have the old Keogh at your institution. An institution wants to understand the tax laws applying to this situation so that it can decide what course of action should be adopted.

A number of banks in 2013 called CWF regarding a customer wanting to rollover an old Keogh plan; we know some banks will call us in 2014. An old Keogh plan is one which the customer did not update as the tax laws required. For example, the customer's most recent plan document was last updated in 1987, 1991, 1994, 2001, etc. Plans which once were Keogh plans in the 1970's generally became profit sharing plans in the 1980's and later.

A person or business which established and maintained an old Keogh or profit sharing plan received substantial tax benefits. First, the sponsoring business, including a one person business, was allowed to claim a tax deduction for the contribution amount. The current maximum contribution for 2013 is $51,000 and is $52,000 for 2014. Second, the earnings on the contributions are not taxed until distributions commence. When a distribution occurs (actual or

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January Deadline,
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to insert a unique number in the account number box located in the lower left hand corner of the form. Even though there will be times when furnishing this account number is not required, the IRS encourages IRA custodian/s trustees to voluntarily furnish it. This account number allows the IRS to process the submissions of any corrected forms.

If the IRA custodian would fail to timely furnish a 2013 Form 1099-R or furnishes one prepared with errors due to its errors, then the IRS may assess a fine of $100 per form.

Fair Market Value (FMV) statements

An IRA custodian must furnish a FMV statement to each IRA accountholder and each inheriting beneficiary having a balance as of December 31, 2013, to each IRA accountholder who died during 2013, and to any IRA accountholder who made a reportable contribution for 2013 during 2013.

This FMV statement must be prepared on a per plan agreement basis. That is, if a person would have two traditional IRAs and one Roth IRA, then he or she would need to be furnished three FMV statements these could be combined as long as there were three separate sections.

There must be a sentence on the statement informing the recipient that the FMV information (Balance as of December 31) will be furnished to the IRS when the 2013 Form 5498 will be filed with the IRS in May of 2014.

The IRA Custodian/trustee may, but is not required, to furnish contribution and earnings (including interest) information on the FMV statement for traditional IRAs, SEP-IRAs and Roth IRAs. However, a special rule applies for SIMPLE-IRAs. In the case of a SIMPLE-IRA, the IRA custodian must furnish a detailed statement listing all contributions (dates, and amounts) made by the employer on behalf of the SIMPLE-IRA accountholders.

Why is it required to furnish the FMV statement? A taxpayer who has basis within a traditional IRA, SEP-IRA or SIMPLE-IRA needs the FMV for purposes of completing the Form 8606 to determine the taxaxble portion of a distribution and the nontaxable portion.

The IRS may assess a penalty of $50 for each failure to furnish the FMV statement for traditional IRAs, SEP-IRAs, and Roth IRAs. The penalty is $100 PER DAY for failing to furnish the FMV statement for a SIMPLE-IRA.

RMD Notice for 2014.

An IRA custodian/trustee must furnish each traditional/SEP/SIMPLE-IRA accountholder who was born on or before June 30, 1934 and who has a balance as of December 31, 2013 with an RMD Notice. This RMD notice must be furnished to ALL such accountholders and not only to those individuals who attain age 70½ in 2014. The RMD notice is not required to be furnished to an individual who only attains age 70 in 2014 (i.e. born between July 1, 1934 and December 31, 2014).

There is no requirement and no need to furnish an RMD Notice to a Roth IRA accountholder since the RMD rules do not apply to a Roth IRA accountholder while he or she is alive.

Three items must be set forth in the required RMD Notice.

First, the deadline applying to the IRA accountholder must be set forth. This will be December 31, 2014, for an individual who is older than age 70½ in 2014 or April , 2015, if the individual does attain age 70½ in 2014. Second, there must a sentence informing the individual that the IRS will be told on the 2013 Form 5498 that he or she is subject to the RMD rules for 2014. Third, the individual must be informed of his or her RMD amount for 2014 or that such amount has not been calculated, but will be if the individual contacts the IRA custodian/trustee and requests that the calculation be made.

Although the RMD laws apply to an inheriting IRA beneficiary of all four types of IRAs, current IRS rules do not require the IRA custodian/trustee to furnish an RMD notice. CWF strongly suggests you do so. The model IRS IRA forms do require that there be an RMD distribution made to an inheriting beneficiary. A beneficiary who fails to take an RMD will owe the 50% tax and may well argue that the custodian/trustee should pay some of this tax for its failure to notify or payout a RMD.

The IRS may assess a fine of $50.00 for each time an IRA custodian/trustee would fail to furnish a complying RMD notice.

In summary, an IRA custodian/trustee must furnish the 2013 Form 1099-Rs, FMV statements, and 2014 RMD Notices by January 31, 2014 or it will be subject to being fined by the IRS. ◆

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Keogh Plan,
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deemed), the amount withdrawn is in included in income and is taxable. When a plan document in not updated by an applicable deadline, the amount in the old Keogh or profit sharing plan is deemed distributed. This is true whether the individual knew of the deadline or not. The individual should have paid tax on this amount and an additional 25% tax is imposed when a person understates his or her tax liability.

The individual is NOT entitled to resolve his or her tax problems by rolling such funds over into a traditional IRA. Distributed qualified plan funds are eligible to be rolled over into an IRA only if the funds are distributed from a "qualified" plan. A plan which has not been timely updated is no longer qualified.

The IRS has a special correction program called Employee Plans Compliance Resolution System (EPCRS). The IRS has adopted this tax administrative program to promote voluntary compliance with the tax pension rules. The concept is – an employer which has not complied with certain tax rules is able to pay a modest compliance fee and modify the plan so there is now compliance. If this is done, the IRS will treat the plan as qualified so that a distribution will be able to be rolled over.

The IRS compliance fee for not updating a plan document is in the range of $375-$750 if the plan covers less than 20 participants. The employer or the employer's representative must make a special IRS filing. CWF's fee to prepare such a filing would be in the range of $500-$1,500 as these filings are very time consuming. It normally takes 6-15 hours to prepare the necessary IRS filing materials.

As you would expect, individuals in this situation may not be inclined to pay the IRS $375-$750 and certainly do not want to pay an attorney or accountant $500-$1,500. From CWF's position, these individuals should jump at the chance to get tax relief by paying relatively modest amounts. An individual with a non-updated Keogh or profit sharing plan with $100,000 might well be required to pay $30,000-$65,000 in taxes, penalties and interest should the IRS discover his or her noncompliance. For this reason, one would think a person paying $1,000-$2,000 to resolve the situation is more than reasonable and is a prudent thing to do. Many people, however, don't think this way. They don't want to pay the IRS anything and they may learn a tax lesson the hard way.

What if the old Keogh funds were located at another financial institution, the individual has withdrawn the funds, and he wishes to make a rollover contribution into his IRA?

If a financial institution has information showing that the purported rollover is ineligible to be rolled over, it must not accept the contribution. A nonqualifying rollover contribution is an excess IRA contribution and a 6% excise tax will apply each year. For example, an individual rolls over $100,000 in December of 2013 even though if he is ineligible to do so. Ten years later the IRS audits this person and discovers the impermissible rollover. Since the $100,000 is an excess contribution, he will be owe $6,000 plus interest and penalties for each of the ten years.

If the financial institution has no information showing that the plan is "old" and if the individual completes a rollover certification form, the rollover contribution may be accepted.

What if the old Keogh funds have been located at your financial institution, but the plan was not updated when it should have been?

A financial institution was and is allowed to discontinue its sponsorship of a Keogh or profit sharing plan document. As long as the the institution gave the individual notice that it would no longer be providing this service and would assist with a transfer to another financial institution, such institution should have no liability. You may inform the individual about EPCRS.

If the financial institution may have some responsibility for the individual not updating his plan, then the financial institution and the individual should make a EPCRS filing to correct the situation. The two parties would need to decide how the costs would be borne or shared. One can expect the IRS and the bank regulators would impose substantially harsher tax and banking consequences if the sponsoring business has knowledge of plan errors and does not choose to use the correction methods which are available.

Update on Profit Sharing Prototypes. The IRS appears to be on schedule to meets its April 1, 2014,

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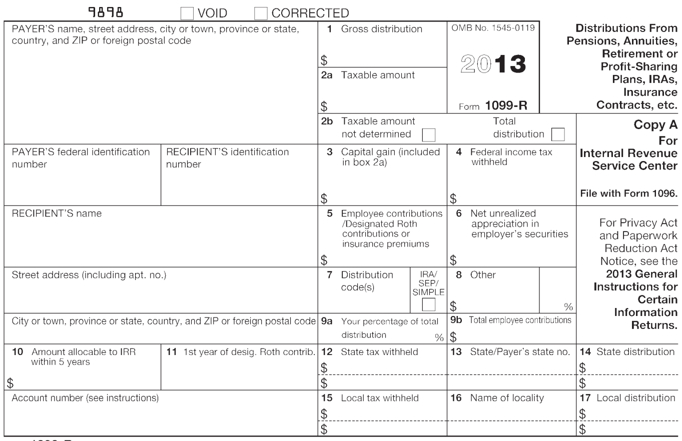
Reporting Roth IRA Distributions on the 2013 Form 1099-R

The general preparation rule is – a Roth IRA custodian is to report the total distribution amount in box 1 and 2a (taxable amount) is to be left blank. Note the instruction to leave box 2a blank does not mean to insert "0.00" on the copy furnished to the individual.



9898 VOID CORRECTED

PAYER'S name, street address, city or town, province or state, country, and ZIP or foreign postal code

1 Gross distribution $

2a Taxable amount $

OMB No. 1545-0119

2013

Form 1099-R

Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

2b Taxable amount not determined / Total distribution

Copy A For Internal Revenue Service Center

File with Form 1096.

PAYER'S federal identification number

RECIPIENT'S identification number

3 Capital gain (included in box 2a) $

4 Federal income tax withheld $

RECIPIENT'S name

5 Employee contributions /Designated Roth contributions or insurance premiums $

6 Net unrealized appreciation in employer's securities $

For Privacy Act and Paperwork Reduction Act Notice, see the **2013 General Instructions for Certain Information Returns.**

Street address (including apt. no.)

7 Distribution code(s)

IRA/ SEP/ SIMPLE

8 Other $ %

City or town, province or state, country, and ZIP or foreign postal code

9a Your percentage of total distribution %

9b Total employee contributions $

10 Amount allocable to IRR within 5 years $

11 1st year of desig. Roth contrib.

12 State tax withheld $ $

13 State/Payer's state no.

14 State distribution $ $

Account number (see instructions)

15 Local tax withheld $ $

16 Name of locality

17 Local distribution $ $

Form 1099-R Cat. No. 14436Q www.irs.gov/form1099r Department of the Treasury - Internal Revenue Service

When box 2a is left blank, the IRS instructions for box 2b suggest that box 2b (taxable amount not determined) is to be checked. The IRS instructions do not expressly state this. Since a Roth IRA custodian does not know if a specific Roth IRA distribution is taxable or not because of the ordering rules applying to Roth IRA distributions, CWF believes that box 2b is to be checked.

There are, of course, some exceptions when box 2a is to be completed with an amount and is not to be left blank. This in turn means box 2b is not checked.

Exception #1. There has been the withdrawal of current year contribution including a true excess contribution. Only the earnings are to be reported box 2a. If there has been no earnings, then report 0.00.

Exception #2. If there has been a deemed recharacterization withdrawal from the Roth IRA, then report 0.00 as a recharacterization is a nontaxable transaction.

Box 7 is comprised of two boxes.The "second" box is for IRA/SEP/SIMPLE. This box is not to be checked when the distribution is from a Roth IRA.

In the "first" box, the proper Code must be entered to describe the distribution from the Roth IRA. Unlike with traditional IRA distributions where two Codes are often used, with Roth IRAs as discussed later, two Codes are only used in two situations.

Code Q – to be used if the custodian knows the 5-year time period has been met and the recipient is either the Roth IRA owner who has reached age $59\frac{1}{2}$ or is disabled, or is an inheriting beneficiary. Note that for purposes of determining if the 5-year time period requirement has been met the Roth IRA custodian only considers the time the Roth IRA has been at the Roth IRA custodian. That is, the time the individual may have had the same Roth IRA funds with another custodian is not considered. No other Code is ever used with Code Q.

Code T – to be used if the custodian knows the 5-year time period has NOT been met and the recipient is either the Roth IRA owner who has reached age $59\frac{1}{2}$ or is disabled, or is an inheriting beneficiary. Note that for purposes of determining if the 5-year time period requirement has been met, the Roth IRA custodian only considers the time the Roth IRA has been with the Roth IRA custodian. That is, the time the individual may have had the same Roth IRA funds with another custodian is not considered. No other Code is ever used with Code T.

Code J – to be used when Code Q or Code T is NOT used. In general, the use of Code J means there has been an early (i.e. before age $59\frac{1}{2}$) distribution from the Roth IRA. For example, Jane Doe has not yet attained age $59\frac{1}{2}$. Regardless of whether she has met the 5-year time period requirement, Code J is to be used.

The two situations where two Codes are used to report a Roth IRA distribution are as follows.

Use Code J8 when there has been the withdrawal of a current year Roth IRA contribution, including a true excess contribution, when the contribution is made one year (could either be 2013 or 2014) and is withdrawn the same year (2013 or 2014). The 8 informs the individual and the IRS that the income, if any, is taxable for the year in which the contribution was made.

Use Code JP when there has been the withdrawal of a current year Roth IRA contribution, including a true excess contribution, when the contribution is made in 2013 but withdrawn in 2014. The P informs the individual and the IRS that the income, if any, is taxable for 2013 since the contribution was made in 2013.

Code N – to be used if a Roth IRA contribution was made during 2013 and it was also recharacterized (deemed to have been withdrawn from the Roth IRA) in 2013 to be a traditional IRA.

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Code R – to be used if a Roth IRA contribution was made during 2012, but it was recharacterized (deemed to have been withdrawn from the Roth IRA) in 2013 to be a traditional IRA.

Code 2 – to be used when the withdrawal was due to an IRS levy (not a state revenue department) or the withdrawal was pursuant to a substantially equal periodic payment schedule. These are early distributions, but an exception is known so the individual and the IRS is told that the 10% additional tax is not owed. The general IRS instructions for box 2a still apply, box 2a is to be checked indicating that the custodian does not know the taxable amount.

Code 5 – to be used when a prohibited transaction has occurred. Code 5 means the account is no longer a Roth IRA. The general IRS instructions for box 2a still apply, this box is to be checked indicating that the custodian does not know the taxable amount.

The Codes as discussed above are the only Codes to be inserted in box 7 for a Roth distribution. Note that no other Codes are ever used to report a distribution from a Roth IRA.

Code B reports a distribution of Designated Roth funds to a person from a 401(k)/403b/457b plan and is never used to report a distribution from any IRA, including a Roth IRA.

Note that Code J is not used with any other code except it is to be used with the Code 8 or Code P, as applicable. Code J1 is never used. The current IRS approach does not inform the individual or the IRS that if the recipient is under age 59$^1/_2$ that he or she owes the 10% if there is any taxable income being distributed.

Special Reporting When Roth Distribution Is Due to Revocation By the Individual or By the Custodian For CIP Reasons

If a Roth owner revokes (7-day rule) a regular Roth IRA contribution or if the custodian for CIP reasons closes the Roth IRA after the making of a regular Roth IRA contribution, but there are no earnings, then the gross distribution is entered in box 1, enter 0.00 in box 2a, box 2b is not checked and Code J is used in box 7. Note this is true even if the individual is older than age 59$^1/_2$ or is disabled.

The above reporting will also be done for any conversion contribution which is revoked by the individual or closed by the custodian for CIP reasons.

If a Roth owner revokes (7-day rule) a regular Roth IRA contribution or if the custodian for CIP reasons closes the Roth IRA after the making of a regular Roth IRA contribution, and there are earnings, then the gross distribution is entered in box I, enter the amount of earnings in box 2a, box 2b is not checked and Code J8 is used in box 7. Note this is true even if the individual is older than age 59$^1/_2$ or is disabled.

The above reporting will also be done for any conversion contribution which is revoked by the individual or closed by the custodian for CIP reasons.

If a Roth owner makes a rollover contribution (or a transfer contribution) from another Roth IRA and then revokes (7-day rule) or if he or she makes a rollover contribution (or a transfer contribution) from another Roth IRA and the custodian for CIP reasons closes the Roth IRA after such rollover or transfer, then the gross distribution is entered in box 1, box 2a is to be completed with the same amount as in box 1 and Code J is used in box 7. Note this is true even if the individual is older than age 59$^1/_2$ or is disabled.

CWF Observation/Comment. We do not understand why the IRS wants the taxable amount box completed with the same amount as the gross distribution from the revoked or closed Roth IRA. When the individual withdrew the funds from the original Roth IRA, the Form 1099-R for that distribution would be prepared with box 2a being blank. We do not see the rationale requiring the new custodian to report the distribution of the closed or revoked Roth IRA as being taxable. This make sense for a distribution from a traditional IRA, but not a distribution from a Roth IRA.

If a Roth owner has made a rollover contribution into his or her Roth IRA from a qualified plan and then revokes (7-day rule) it or the custodian for CIP reasons closes the Roth IRA after such rollover and there are no earnings, then the gross distribution is entered in box 1, enter 0.00 in box 2a, box 2b is not checked and Code J is used in box 7. Note this is true even if the individual is older than age 59$^1/_2$ or is disabled.

If a Roth owner has made a rollover contribution into his or her Roth IRA from a qualified plan and then

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Completing the 2013 Form 1099-Q (Payments from a Coverdell ESA)

As with other IRS tax reporting forms, the Form 1099-Q is used by an individual to prepare his or her tax return and it is used by the IRS to make a basic determination if the individual has properly determined and reported the CESA transactions on his or her tax return.

3131 ☐ VOID ☐ CORRECTED

PAYER'S/TRUSTEE'S name, street address, city or town, province or state, country, ZIP or foreign postal code, and telephone no.	1 Gross distribution $ 2 Earnings $	OMB No. 1545-1760 2013 Form 1099-Q	**Payments From Qualified Education Programs (Under Sections 529 and 530)**
PAYER'S/TRUSTEE'S federal identification no. / RECIPIENT'S social security number	3 Basis $	4 Trustee-to-trustee transfer ☐	**Copy A For Internal Revenue Service Center**
RECIPIENT'S name	5 Check one: • Qualified tuition program — Private ☐ or State ☐ • Coverdell ESA ☐	6 Check if the recipient is not the designated beneficiary ☐	**File with Form 1096.**
Street address (including apt. no.)			For Privacy Act and Paperwork Reduction Act Notice, see the **2013 General Instructions for Certain Information Returns.**
City or town, province or state, country, and ZIP or foreign postal code			
Account number (see instructions)			

Form **1099-Q** Cat. No. 32223J www.irs.gov/form1099q 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

A CESA custodian/trustee must file the 2013 Form 1099-Q to report every distribution from a Coverdell ESA. Completing the Form 1099-Q is similar to completing the Form 1099-R for IRA distributions, but there are many differences. The IRS instructions on reporting distributions from CESAs would certainly be improved if the IRS would clarify some of the instructions.

The Form 1099-Q is prepared using the name and social security number of the CESA's designated beneficiary. This is the person whom the CESA is intended to benefit.

On the Form 1099-R, box 7 must generally be completed with one distribution code. If more than one distribution code applies to a person, a separate Form 1099-R must be prepared. On the Form 1099-Q, the CESA custodian may, but is not required to include a distribution code in the blank box below boxes 5 and 6. This means only one Form 1099-Q is required to be prepared to report all of the CESA Distributions.

However, the IRS does ask that in at least three cases, separate forms be prepared. First, the IRS would like the CESA custodian/trustee to prepare a separate Form 1099-Q if an excess contribution was made and withdrawn. Secondly, the CESA custodian/trustee should file a separate Form 1099-Q for any (each) transfer.

An IRA custodian is not required to prepare a Form 1099-R if the annual distribution amount for person is less than $10. Although there probably should be the same rule for a CESA distributions, there is no $10 limit for CESA Distributions. All CESA distributions must be reported.

If a CESA custodian prepares more than one Form 1099-Q for the same recipient, then the CESA must complete the account number box with a unique account number for that person. As with IRAs, the IRS would like the custodian/trustee to insert an account number in the account number box even though it is not mandatory.

And unlike with IRAs where a transfer distribution is not reported on the Form 1099-R, a transfer distribution must be reported on the Form 1099-Q.

Box 1 reports the gross distribution amount paid to the designated beneficiary or a beneficiary. The distribution may be made with cash or with some property. This amount will be the sum of the account's basis (see box 3) and the earnings. (box 2).

Box 3 shows the basis within the CESA if the CESA custodian has elected to report such basis. However, the IRS has given the CESA custodian the option of leaving box 3 and box 2 blank.

If this option is elected, and most financial institutions elect this option, the custodian must report the fair market value (FMV) as of the end of the year in the blank box below boxes 5 and 6. The amount must be labeled FMV. It will then be the designated beneficiary and his or her accountant that determine what portion of the distribution is basis and earnings.

Box 2 is used to report the earnings if the CESA custodian has elected to report such earnings. However, the IRS has given the CESA the option of leaving box 2 bank as discussed above and most custodians have elected this option. Box 2 is generally left blank. And then it will be up to the designated beneficiary and his or her accountant to determine what portion of the distribution is basis and earings.

The distribution of earnings may or may not be taxable. Earnings used to pay qualified education expenses will be tax-free. Earnings withdrawn and used for rea-

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Form 1099-Q,
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sons other than paying the qualified education expenses of the designated beneficiary will be taxable and possibly subject to the 10% penalty tax. Earnings are NOT subject to backup withholding.

If the CESA has incurred a loss (i.e. negative earnings) and the CESA is not closed this year, then enter 0.00 in box 2. Also enter 0.00 if you know that there has been no earnings.

If the CESA has incurred a loss and the CESA is closed this year, then enter a loss in box 2.

There is one time when the IRS asks the CESA custodian to not leave boxes 2 and 3 blank. This is when an excess contribution is withdrawn along with the related earings.

Box 4 contains a checkbox and this box is to be checked to indicate that there has been a trustee-to-trustee transfer. It is to be checked if the CESA distribution is made directly to another CESA (section 530) or to qualified tuition program (section 529). There is no similar box on the Form 1099-R. Box 4 is to be left blank if the CESA custodian does not have records showing that the gross distribution was a trustee-to-trustee transfer.

It appears that if there has been a change in the designated beneficiary, but the new beneficiary is a member of the former beneficiary's family and he or she is under age 30, then this change is not to be reported as a transfer on the Form 1099-Q.

It also appears that if there has been a change is the designated beneficiary, but the new beneficiary is a member of the former beneficiary's family but he or she is age 30 or older, then this change is to be reported as a transfer on the Form 1099-Q and the recipient will need to include the income in his or her income.

It also appears that if there has been a change into the designated beneficiary, but th new beneficiary is NOT a member of the former beneficiary's family, then this change is to be reported as a transfer on the Form 1099-Q and the recipient will need to include the income in his or her income.

Box 5 reports the type of plan. check the CESA box. The other two boxes related to the two types of qualified tuition programs.

Box 6. This box must be checked if the distribution was made to a person other than the designated beneficiary. Normally, this will be the case if the funds are paid to a beneficiary who is not a family member of the deceased designated beneficiary. Such family members are: his or her spouse; children, stepchildren, foster children, and their descendants; parents, their siblings, ancestors; stepparents; in-laws; and the spouses of such individuals and any first cousin of the designated beneficiary.

The recipient of a CESA distribution will in some cases have to report the CESA distribution on his or her federal income tax return. The IRS instructions to the recipient do state that "nontaxable" distributions from CESAs, including rollover, are not required to be reported on the individual's tax return. See Pub. 970.

Keogh Plan,
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deadline for issuing new favorable opinion letters to all prototype mass submitters, including CWF. Then, as in past years a sponsoring employer of a prototype plan is given 12-months in which to amend and restate its plan by completing and signing the updated adoption agreement. By doing so, the plan is considered to be qualified for the period of 2006-2011/2012.

Helping the Beneficiary When There is Erroneous IRA Guidance by a Certified Planner

An IRA custodian/trustee is not to give tax advice. However, the IRA custodian/trustee must administer the IRA. When an IRA accountholder dies, the beneficiary should be advised to seek advice from their accountant or attorney. The beneficiary, of course, may seek advice from another IRA custodian/trustee.

There will be times when a beneficiary is given poor guidance. What to do?

CWF recently furnished a banker who has worked with IRAs a very long time the following letter.

Dear XXXX:

In 2013 an IRA accountholder with your bank died. His sole beneficiary was his wife. I understand he was age 55 and she is age 42. You had called CWF at least two times to discuss the options which she should consider as the IRA beneficiary. You discussed these options with her so she could make an informed decision.

Yesterday, she was talking with a "certified" financial planner who informed her that what you had told her was incorrect. I understand the person told her, that if she did not elect to treat his IRA as her own that she would need to commence distributions in 2014 (i.e. the year after the year her spouse died). This is wrong.

I realize that many times a person does not realize when he or she is wrong. And this includes me also. However, when someone suggests that I am wrong, I will check to see if I am wrong. This "certified" planner apparently is so sure he is right that he does not need to research the topic further. Well, he is wrong and the surviving spouse will be lessening her tax and possible distribution options. If the planner was acting in her best interest, he would be checking his understanding.

He apparently is unaware that a special distribution rule applies to a spouse who is the sole beneficiary of an IRA owner who dies prior to his required beginning date. In general, this means prior to age 70½.

IIRS Publication 590 (IRAs) and the first page of IRS Form 5305-A should be reviewed. Both discuss the special rule for a spouse who is the sole beneficiary She is allowed to commence distributions by December 31 of the year that he would have attained age 70½ and not December 31 of the following year as is the rule for nonspouse beneficiaries and a spouse beneficiary who is not the sole beneficiary.

Since she is 42, by maintaining the IRA as an inherited IRA, she may take distributions prior to age 59½ and she would not owe the 10% tax which would be owed if she took a distribution after treating his IRA as her own IRA. Most likely, at age 59½ she would elect to treat his IRA as her own IRA. If she would not need to use any of the inherited IRA funds prior to age 59½, then she would not take a distribution.

In summary, I am writing this letter so your surviving spouse may make an informed decision and not be "buffaloed" into thinking the "certified" planner is correct in his guidance. He is not. We all make mistakes and hopefully this "certified" planner will admit his mistake.

Sincerely,

CWF

Reporting Distributions,
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revokes (7 day rule) it or the custodian for CIP reasons closes the Roth IRA after such rollover and there are earnings, then the gross distribution is entered in box 1, enter the earnings in box 2a, box 2b is not checked and Code J is used in box 7. Note this is true even if the individual is older than age 59½ or is disabled.

In conclusion, the IRS has detailed rules and procedures to be followed by the custodian to report Roth IRA distributions. Remember, the IRS may assess a $100 per form fine for each improperly prepared Form 1099-R. Until the IRS furnishes additional guidance explaining more definitevely that a person who receives a Form 1099-R with a reason Code Q in box 7 need not mention it on his or her federal income tax return, an individual will want to explain on the return that the distribution is qualified and is not taxable.