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## ALSO IN THIS ISSUE –



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



## What is the Status of myRA?

Presumably, the IRS on behalf of the U.S. Department of the Treasury is in the process of developing what is needed to implement and administer the myRA program. There will need to be created myRA plan agreements, investments and computer software.

In January of 2014 the U.S. Department of Treasury announced that it was developing the myRA ("My Retirement Account") program. This was discussed in the February 2014 newsletter. You may find this article at www.pension-specialists.com/myra.pdf

The U.S. Treasury stated that it will begin rolling out the myRA forms and procedures in late 2014. This means after the November 4th elections. It will be possible for eligible employees of participating employers to enroll by signing up for a myRA account online.

It is presently unclear if an individual's contributions would be invested in an investment created and administered by the U.S. Treasury or whether the U.S. Treasury would select various financial institutions to serve as the myRA custodian or trustee.

An employer's duties under this program would be limited to sending by direct deposit the contribution amounts withheld from employee paychecks to each employee's on-line myRA.

Once the U.S. Department of the Treasury furnishes the promised guidance, we will inform you.

## No Bankruptcy Exemption For Funds Within an Inherited Individual Retirement Account

Those who work in the legal profession like to think the law is primarily logical and efficient. After all we are a nation of laws rather than individuals. We tend to forget that laws are enacted by politicians with input from their constituents. Many times there are self-serving motives. And sometimes judges do not like the laws which they must interpret and enforce or at least they see flaws needing to be corrected. Rather than have the legislature correct such flaws, sometimes courts choose to correct such flaws by a court ruling.

In 2005, the federal bankruptcy laws were changed. One major change dealt with credit card debt. It is now much harder to eliminate credit card debt by a bankruptcy filing. A second major change dealt with increasing the amount of funds in retirement plans and IRAs which a person could exempt from his or her bankruptcy estate. In general, the limit for IRAs is now $1,000,000 and the amount for funds in an employer sponsored pension plan is unlimited.

The public policy of the bankruptcy laws is that a person should be able to provide for himself or herself during their retirement years. However, the granting of such a large exemption for IRAs and pension plans means that many times

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creditors are left unpaid when an individual files for bankruptcy. Some people, including many judges, would consider such a large exemption amount to be contrary to the legal framework for bankruptcy. Yes, a person should be able to have a fresh start after incurring financial difficulties, but creditors are still entitled to be paid a reasonable and fair amount and that an individual should not have a "free pass" to an unfettered new and improved financial health.

The U.S. Supreme Court recently decided the case, Clark v. Rameker. Ms. Clark had inherited an IRA from her mother with an original balance of approximately $450,000 in 2001. The amount in her inherited IRA was approximately $300,000 when she filed for bankruptcy in October of 2010. Rameker is the bankruptcy trustee and has argued that Ms. Clark is not entitled to exempt the $300,000 from her bankruptcy estate. The bankruptcy court adopted the trustee's position that Ms. Clark was not entitled to the exemption. Ms. Clark then appealed to the District Court. The District Court reversed the decision by ruling that Ms. Clark was entitled to exempt the amount in her inherited IRA. The trustee then appealed to the 7th Circuit Court of Appeals which reversed the District Court. Since there had been split decisions in the circuit courts, the Supreme Court agreed to rule on the case to settle the issue.

The U.S. Supreme Court affirms the 7th Circuit position of no exemption for inherited IRA funds.

The legal analysis and rationale. The U.S. Supreme Court ruled, by a unanimous vote, that "The text and purpose of the Bankruptcy Code makes clear that funds held in inherited IRAs <u>are not retirement funds</u> within the meaning of section 522(b)(3)(C) is bankruptcy exemption." Justice Sotomayer wrote the court's opinion.

As discussed below, the U.S. Supreme Court had to strain the law to reach the result that allowed the bankruptcy trustee to win and Ms. Clark to lose.

How does Bankruptcy Code section 522(b)(3)(C) read? Bankruptcy code section 522(b)(3)(C) provides an exemption for "(C) <u>retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986</u>." Code section 401 defines the laws for a qualified plan. Code section 403 defines the laws for tax sheltered annuities. Code section 408 defines the laws for traditional IRA and IRA annuities. Code section 408A defines the laws for Roth IRAs and Roth IRA annuities.

Note that there is no special tax code section for inherited IRAs. An inherited IRA is not a special type of IRA as the court tries to define it. An inherited traditional IRA is simply one which comes into existence after the IRA accountholder dies.

Also note that there is no express indication that the retirement funds must be the retirement funds of the bankruptcy debtor. This is what one expects when one has funds in a 401(k) plan or an IRA. These funds are within a legal and tax entity independent of the individual's will or estate. There is a 401(k) plan agreement or an IRA plan agreement which requires the individual to designate one or more primary beneficiaries. Such plan indicates that the beneficiary acquires his or her share upon the death of the participant or IRA accountholder.

Notwithstanding that the account is called an inherited individual RETIREMENT account, the U.S. Supreme Court on June 2, 2014, ruled that funds within an inherited IRA <u>are not retirement funds</u> within the meaning of Bankruptcy Code section 522(b)(3)(C).

Federal bankruptcy laws allow an individual to exempt certain property from his or her bankruptcy estate. This is property he or she is allowed to keep after the bankruptcy and which cannot be claimed by the bankruptcy trustee. The approach of the bankruptcy laws is to give a person the ability to have a fresh start after incurring financial difficulties. Of course, there should be and there are limits as to the ability of a person not to pay his or her debts.

The attorney for the bankruptcy debtor argued that Bankruptcy code section 522(b)(3)(C) was clear - funds within any traditional IRA, including an inherited traditional IRA, as established under Code section 408 were entitled to the exemption. The District Court in this case, the Fifth Circuit in a different case and the Eighth Circuit in a different case had the same understanding. The rationale of the District Court was that

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the exemption covers any account containing funds originally accumulated for retirement purposes. This is consistent with the legal operation of a traditional IRA. It is a special tax-preferred revocable trust. It has two express purposes. Contributions and the investments will be used for the retirement of the IRA accountholder and then after his or her death will be used to benefit the designated beneficiary over a time period which may be as long as the life expectancy of the beneficiary.

The U.S. Supreme Court reached a different conclusion. In order to be entitled to claim the exemption of Bankruptcy Code section 522(b)(3)(C) , the court ruled that an individual has to meet two requirements, not just one requirement. First the funds must be retirement funds. Second, such funds must have been in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."

The U.S. Supreme Court wrote that the two words "retirement funds" as set forth in Bankruptcy Code section 522(b)(3)(C) mean more than just funds in the enumerated tax code sections. A cardinal rule of statutory construction is, "a statute should be construed so that effect is given to all its provisions, so that no part will be in operative or superfluous. The first six words, "retirement funds to the extent that" in order not to be superfluous must have a meaning or purpose independent of the enumerated sections.

The court then found that since there was no definition of "retirement funds" within the Bankruptcy Code that it must define the term and it did so. It defined retirement funds as sums of money set aside for the day an individual stops working.

The court then reasoned that there are three principal reasons why inherited IRA funds are not retirement funds. First, the beneficiary is unable to make any additional contributions. Second, the required distributions rules apply to an inherited IRA and distributions must be taken long before retirement age. Third, the 10% penalty tax does not apply to a beneficiary and so the beneficiary is able to take a distribution at any time and use the funds for current consumption. It is this later reason which seems to have influenced the court's decision the most. The court stated its dislike for the possibility that a person who has an inherited IRA could file for bankruptcy, claim the exemption for retirement funds and then after the bankruptcy has been granted eliminating his or her debts immediately withdraw funds from the inherited IRA for personal consumption reasons. In essence the debtor would have a free pass which is not the intent of the Bankruptcy laws. The court was unwilling to give this free pass.

Additional Litigation

There will be additional litigation by bankruptcy trustees as a result of his case. The U.S. Supreme Court has made clear it is receptive to consider cases involving whether or not - the exemption of Code section 522(b)(3)(C) is available to a bankruptcy filing.

This case settles the issue with respect to an inherited traditional IRA.

The case of In Rousey v. Jacoway, settled that a traditional IRA was a retirement account within the meaning of Bankruptcy code section 522(b) (3) (C) and was entitled to be exempted from the individual's bankruptcy estate.

When one reads this case, one certainly has the idea that an inherited Roth IRA would also be found to not be retirement funds for bankruptcy Code section 522(b)(3)(C) purposes.

What about standard Roth IRA funds? Although we expect that the rules of Rousey would apply to a Roth IRA and the exemption would apply, this issue has not been firmly settled. One can expect that a bankruptcy trustee will make the argument that Roth IRA funds are not retirement funds since the Roth IRA accountholder never has to take a distribution while alive.

What about inherited 401(k) funds still within the 401(k) plan? One can expect a bankruptcy trustee to argue that inherited 401(k) funds also are not retirement funds within the meaning of Bankruptcy Code section 522(b)(3)(C). ERISA protects such funds from creditors, including a bankruptcy trustee, as long as such funds are within the 401(k) or other pension plan. Many 401(k) plans have been written to require an inheriting beneficiary to withdraw or direct rollover his or her inherited funds within a short time period.

This bankruptcy ruling is going to result in more IRA accountholders seeking legal and tax advice regarding whether a trust should be the IRA's designated benefici-

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ary rather than directly naming family members and other individuals.

Additional Legislation.

This case is going to make people nervous. Congressional representatives will hear from their constituents that a person who has inherited an IRA should be able to exempt a reasonable amount from his or her bankruptcy estate. If the definition of retirement funds needs to be changed, then it should be changed. What amount is reasonable will need to be discussed and settled.

In summary, the unanimous decision by the U.S. Supreme Court in Clark v. Rameker was surprising. Although an inherited IRA is certainly a retirement account for tax purposes, it is not retirement funds within the meaning of the Bankruptcy Code. Code section 522(b)(3)(C) did not seem so unclear that it needed to be rewritten by the Court, but that is what the Court did. The Court simply could not condone a bankruptcy debtor claiming an exemption for funds within an inherited IRA and then once the bankruptcy filing was finalized (and debts extinguished) to be able to take immediate distributions from the inherited IRA for any personal consumption purpose. Time will tell if Congress will choose to define more specially what funds qualify as retirement funds for purposes of the exemption. We expect there will be new legislation in 2014-2015.

## Charging a Fee For a Direct Rollover of IRA Funds to a 401(k) Plan

A financial institution should consider instituting a fee if it agrees to directly rollover a customer's IRA funds to his or her account within an employer's 401(k) or 403(b) as discussed in the following email situation/question. It is only logical and right that a financial institution receive a reasonable fee for helping a customer when it agrees to issue a check directly to the 401(k) plan. You are helping your customer and also the 401(k) plan.

Technically, a direct rollover cannot occur between an IRA and a 401(k) plan as the law defines a direct rollover as only being between an employer sponsored plan and an IRA. But the IRS has adopted the rule that the reporting rules applying to a direct rollover from a 401(k) plan to an IRA are also to be used if the funds move from an IRA to a 401(k) plan.

The email question/situation:

Question regarding an IRA rollover from our bank to the customer's 403b retirement plan. Assume the best is to issue a check directly to the customer and code the 1099-R as a G code? The customer will have to sign an IRA distribution form?

Please let me know if this is correct?, I have not had a request like this before, it is usually the reverse from a retirement plan into an IRA at the bank. Thanks so much for your help!

CWF's answer/response:

The easiest approach for the bank is to issue the check to her and you would use code 1 if she is under age 59½ and 7 if she is over age 59½. You treat it as a normal distribution. Then she makes a rollover contribution to the plan.

The tax code does <u>not</u> require an IRA custodian to issue the check to the plan. However, many plans require the check to come from the IRA issued to the plan since this simplifies the plan administrator's administrative concerns regarding accepting a rollover contribution.

If your institution decides to be nice and accommodate your customer, you will issue the check to ABC 401(k) Plan fbo Jane Doe. Use CWF's Form 69 or a similar form as prepared by the plan administrator. And then you would use the reason code G in box 7 of the Form 1099-R. When G is used box 2, taxable amount, is to be completed with 0.00 as you know the amount the is non-taxable as you sent the funds directly to the plan. As you indicated it is the reverse of a direct rollover coming from a pension plan to an IRA.

An IRA custodian may have a fee for this special service as long as it has been disclosed. Like with transfer fees, we expect many customers would be willing to pay a fee for this special service.

## Email Guidance

**Missed RMD Question.**

**Q-1.** As per our telephone conversation today, First National has an IRA customer Chris Rosen whose required minimum distribution was not made. The RMD

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amount should have been $1,461.00 disbursed on 11-30-13. The balance in the IRA the disbursement was supposed to come from did not have sufficient funds for the distribution and the account number was never changed to another one of her IRA accounts. Chris' sons would like a letter stating the Bank was at fault for the disbursement not being made so they do not have to pay a penalty on their taxes. Would you please give me some insight as what I should write in the letter?

**A-1.** The sons will want to complete the form 5329 and request the 50% tax be waived by attaching a note referencing the bank's error. The bank will want to write a letter admitting its error which can be attached by each son. I would suggest the bank write a letter on behalf of the two beneficiaries similar to the following:

"We are writing this letter to explain the error which the bank made with respect to an IRA accountholder's required distribution. Our customer, Chris Rosen had previously instructed us to withdraw her 2013 RMD from a specific IRA account. An instruction had been inputted into our computer system to withdraw such amount on November 30, 2013. This withdrawal did not take place because she did not have sufficient "liquid" investments in such account. Bank personnel did not become aware that such distribution had not taken place until January of 2014. Ms. Rosen did die on December xx, 2013 and her sons did not withdraw the remaining RMD as they thought it had already been withdrawn. Please inform us if you need additional information. The son beneficiaries should not have to pay the 50% excise tax on account of our error and/or account of the fact that the death only occurred in December and there was not sufficient time to withdraw the RMD. Once the sons became aware of their requirement to withdraw the 2013 RMD amount they did so in early 2014. Sincerely, (Bank Name)."

### Inherited IRA Question.

**Q-2.** If I'm taking a distribution from an Inherited IRA and mailing a check to the IRA accountholder - is it okay to make the check payable to "John Smith" or is it best to make it payable to "John Smith as Beneficiary of Mary Smith"?

**A-2.**The IRS does not mandate the use of "John Smith as beneficiary of Mary Smith", but that is the most conservative approach and that is what we recommend. The IRS would allow the use of John Smith.

### Reporting for a Distribution Which is Converted.

**Q-3.** I finally found my 2013 version of the Distribution Codes for the various IRA types and had a few items for clarification. As I read the 1099-R instructions for 2013 and even the current year, they seem to indicate that either a 2 or 7 is valid for a Roth Conversion. Also it seems like a B7 is valid for a Designated Roth account, depending on the person's age. Any additional insight on these would be much appreciated.

**A-3.** In order to do a conversion a person withdraws or is considered to have withdrawn funds from the traditional IRA and moved them to the Roth IRA. A person must include in their income the taxable portion of the amount withdrawn from the traditional IRA. If the individual is under age 59½ at the time of the deemed distribution, reason code 2 is to be used since the 10% tax is not owed when there is a conversion. If the individual is age 59½ or older, then the standard reason code 7 is to be used.

Code B is used to report the distribution of Designated Roth funds from a 401(k), 403(b) or 457(b) plan which has such funds. Code B may be used with other codes - the IRS chart shows 1,2,4,7,8, G,L,P, or U may work with the B. A distribution of Designated Roth funds may or may not be taxable to the individual. The individual will need to complete his/her tax return and explain.

### Calculating RMD Question.

**Q-4.** An IRA accountholder has her two sons assigned as beneficiary. She will begin her distribution for her RMD this year. Should the age of the older or younger son be used for this calculation?

**A-4.** The current RMD rules were revised (2002) and no longer require the IRA custodian to determine which beneficiary is oldest. The IRA custodian now uses the Uniform Lifetime Table by using the age of the accountholder to determine the divisor regardless that there may be multiple beneficiaries. Prior to 2002 a determination was made whether a "single" life expectancy or divisor would be used or a joint factor would be used. To simplify the RMD calculation, a joint divisor is now used for every IRA accountholder age 70½ and older.

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95% of the time the joint divisor will come from the Uniform Lifetime table and the other 5% it would come from the Joint Life Table. See the attached Uniform Lifetime Table. This table is special joint table the IRS created by assuming there is always a beneficiary who is 10 years younger than the accountholder.

The only time the joint table is used when the IRA beneficiary is the accountholder's sole primary beneficiary and he or she is more than 10 years younger than the IRA accountholder. Otherwise, it is not used.

**IRA Bonds and IRS Reporting.**

**Q-5.** I have a situation where a customer held physical EE Series Bonds in an IRA account with us which were titled in the manner First National Bank as Custodian for Mr. ABC IRA. He decided to cash them in and a cashier's check for the original face amount plus interest was deposited into the IRA a/c. I understand the bank must issue a 1099 INT for the interest portion because the bonds were presented for payment. However, the bank is stating the recipient's name only should be on the 1099 given the s/s used. I'm in the camp the title should have IRA listed with the name because the bonds were held in an IRA thus governed and protected by the rules for IRAs. Am I correct in my thinking? Otherwise, I will not pursue the objective of having the bank issue a corrected 1099.

**A-5.** An interesting question/situation. I admit to not working with the EE Series Bonds and IRA bonds all that frequently. This situation presents two governmental units being involved - the IRS and the Federal Reserve. Sometime things are not as coordinated as they should be.

I agree with your tax analysis and that the Form 1099-R should be issued to Cumberland Trust as IRA trustee. However, I believe the Federal Reserve has the rule (maybe due to computer software design limitations) that even though an IRA trustee actually owns the bond that the IRS reporting is in the name of the individual. My suggestion - rather than fight the system, I would suggest to the individual that he or she attach a note to the tax return explaining the situation - that for the particular Form 1099-INT that he or she has not included on the tax return because it does relate to an IRA investment.

**Using Code 3 on Form 1099-R.**

**Q-6.** We have an IRA accountholder who is 52 with stage 4 cancer. She is wondering if there is any way she can take a distribution from her IRA without facing a penalty.

What would the consequences be if she takes substantially equal installments and passes after taking a few of the payments?

What options are available to her?

**A-6.** She should talk with her doctor (and maybe her accountant could help) to see if she would be considered to be disabled for IRA and pension purposes. then most likely she would be considered to be disabled for IRA tax purposes. Stage 4 means the cancer has spread. If it is likely she will die from this cancer, then most likely she would be considered to be disabled for IRA tax purposes. The bank would code the distribution as a reason code 3 and she would not owe the 10% tax.

CWF Form 57D could be used to verify her medical condition or any similar writing from her doctor should suffice for the bank's records.

**Funeral Home as the IRA Beneficiary.**

**Q-7.** Is it permissible for an individual to designate a funeral home as her IRA beneficiary?

**A-7.** The conservative answer is, it is not permissible because it would be a prohibited transaction. The bank will want to consider two approaches.

Approach #1 is that the bank informs the person that the bank will resign as custodian if the person wishes to designate a funeral home as the beneficiary. Why? Most likely this is a prohibited transaction. He may be able to find another financial institution willing to help him.

Approach #2 The bank will inform the person that he or she must obtain and furnish the bank with a tax opinion letter from an accountant or attorney that a prohibited transaction does not occur as a result of this designation and that should the IRS or DOL disagree that he/she assumes full responsibility and will not look to the bank for any damages.

The individual should consider withdrawing a portion each year and paying tax on it and then the remaining funds could be available for the funeral home.

I believe the IRS would find a PT (IRA is taxable) if

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a funeral home was the designated beneficiary. The individual receives a current benefit, knowing that the paying of the funeral expenses have been or will be handled. Receipt of a current benefit means there is a PT.

The IRS expects someone to pay taxes with respect to the IRA funds. There is nothing which would allow the funeral home not to have to include the amount in its income. This is true whether payment comes from a checking account or an IRA.

**Extending the QCD Rules – No New Law Yet.**

**Q-8.** I had another question for you with regard to if Congress is looking at all about extending the QCD for 2014, or is this something that will stay out there until after the November election. In the interim, if someone has typically given out gifts from their IRA should we continue to do so by having the checks sent directly from the IRA to the charity vs paying out the money to the client and having him write the checks. I am thinking the former as hopefully they will allow them, but it's just a crapshoot – so I just wanted to get your thoughts.

**A-8.** I agree with your analysis. I don't believe Congress will enact a law authorizing QCDs until after the November elections and maybe not even then. If a law is enacted, I believe it will be retroactive as of January 1, 2014. Therefore, for those individuals willing to assume the consequences if the QCD rules are not made retroactively effective, the IRA trustee could continue to the issue the check to the charity on the chance that there would be QCD rules for 2014 adopted on a retroactive basis.

**Designating a Trust as the IRA Beneficiary.**

**Q-9.** I have two questions I am hoping you can answer for me.

#1) Can we use the IRA Trust document adding an addendum to it to restrict the non-spousal beneficiaries above their RMD, but for a FUTURE appointment? No cash coming in yet but the client wants to establish their IRA with NBI to use the trust advantage of restricting benefits over and above the RMDs to their children, but they are wanting to do it in a year or two.

#2) RMD and QCD confusion for 2012/2013. There is some confusion on how to treat the QCDs paid before 1/31/2013 for 2012 QCD reporting but reported out on the 1099R in 2013. The example is as follows: Client was paid RMD of $84,000 on 12/15/2012 (prior to any ruling on the QCD) funds deposited in checking. Client then paid out $48,000 directly to charities from his checking all of which is documented. He then wanted to give another $42,000 for 2012 to charities, and therefore $42,000 was paid directly from the IRA to the charities by 1/31/2013. Then he paid $100,000 in 2013 for his 2013 QCDs. He got a 1099R in 2013 for $142,000 and he got a 1099R in 2012 for $84,000. Problem is how is this all treated, and is a part of this taxable?

**A-9.** I will address question #2 first. Since the QCD laws were enacted for four consecutive two year periods (2006- 2013) but such laws never were permanent, the IRS adopted the approach that the IRA custodian prepares the Form 1099-R to report the QCD amount(s) in the standard fashion: box 1 and box 2a are completed with the distribution amount, the taxable amount not determined box (2b) is to be checked and then on the tax return an explanation is furnished that a QCD was made so the distribution is not taxable. See the instructions for completing lines 15a and 15b on Form 1040.

You have a situation where the IRA accountholder withdrew his RMD of $84,000 in December of 2012. From this amount, he wrote out a check to a charity(ies) in the amount of $48,000. In January of 2013 he made a QCD to the extent of $42,000. Under special tax rules, this amount was considered to be for tax year 2012. He also made QCDs of $100,000 in 2013 for 2013. See the 2013 version of Publication 590 for a discussion of the special rules.

It appears the Form 1099-Rs for 2012 and 2013 were prepared correctly

The tax preparer or individual should have attached a note of explanation to the 2012 tax return and also the 2013 return explaining the situation - such distributions were made and they were not taxable since they met the QCD rules.

Question #1. I may need you to furnish additional information. It is not clear to me who is or who are the beneficiaries of the IRA. Are individuals the beneficiar-

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# Preliminary HSA Tax Data for 2012

With respect to tax year 2012 the IRS has estimated that there were 1,048,888 (up from 981,452) taxpayers who made contributions to HSAs and who claimed tax deductions totalling 3.2 billion dollars. The average claimed deduction per tax return was $3,050.

The number of tax returns claiming a deduction for contributions to an HSA increased by 6.9%.

The amount contributed to an HSA (and deducted) increased to 3.2 billion from 2.9 billion. This was an increase of 9.0%.

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

For 2012, the maximum HSA contribution was $3,100 for self-only coverage and $6,250 for family coverage. Individuals age 55 or older were eligible to make an additional catch-up contribution of $1,000.

What was the AGI of those who made HSA contributions?

| | Under $15,000 | $15,001 to $29,999 | $30,000 to $49,999 | $50,000 to $99,999 | $100,000 to $199,999 | $200,000 Or more | Total |
|---|---|---|---|---|---|---|---|
| Number of Returns | 32,704 | 75,865 | 127,163 | 321,171 | 274,971 | 217,014 | 1,048,888 |
| % of Total Returns | 3.12% | 7.23% | 12.12% | 30.62% | 26.22% | 20.69% | 100% |
| Contribution Amt. **(in thousands)** | $93,203 | $157,064 | $238,857 | $774,058 | $914,397 | $1,022,149 | $3,199,728 |
| % of Total Contr. | 2.91% | 4.91% | 7.46% | 24.19% | 28.58% | 31.95% | 100% |
| Avg. Contr. Amt. | $1,933 | $1,992 | $1,878 | $2,410 | $2,962 | $4,710 | $3,050 |

CWF Observations

1. The average 2012 return showed a contribution of $3,050 versus $2,692 for 2011. The tax rules certainly permit additional contributions.
2. 77.5% of the deductible contributions came from individuals with $50,000 or more of AGI.
3. The largest average contribution was from the $200,000 and over group and it was $4,710 per return. The next largest average contribution was $2,962 and it came from the $100,000 to $199,999 group.
4. There have been recent estimates that there were 8.2 million HSAs as of December 31, 2012, and 10.7 million as of December 31, 2013. It appears that a large majority of HSA owners do not make HSA contributions in addition to what their employer contributes. They should. ◆

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ies, are there individuals and a trust, or is it just a trust which is the beneficiary?

If a trust is the sole beneficiary and the trust is "qualified", there would be just one RMD calculation for the trust and there would not be a separate RMD requirement for the children.

If the children are the primary beneficiaries, then there would be a separate RMD calculation for each child. Each beneficiary's share would need to be known (or valued) as of each December 31st so the RMDs could be calculated. The distribution amount could be restricted to the RMD for any one or more years.