The Pension Digest

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ALSO IN THIS ISSUE –

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"The Pension Specialists"

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IRS Expands the Rules on Rolling Over After-Tax QP Funds to a Roth IRA and Other Plans

On Thursday, September 18, 2014, the IRS adopted a new tax position for those individuals who have after-tax (basis or nontaxable funds) within an employer sponsored retirement plan. Under existing IRS rules, many individuals are unable to contribute only the after-tax amounts into a Roth IRA unless the individual uses the complicated approach discussed in the July, 2013, Pension Digest.

This change is very favorable to taxpayers and will be well received by taxpayers and their tax advisors. Taxpayers have been waiting for many years for the IRS to issue additional guidance on the topic of converting after-tax funds. Tax certainty for taxpayers has improved. With some limits, the IRS will apply the new rules retroactively.

The IRS issued Notice 2014-54 setting forth its new position on how a taxpayer is to allocate after-tax amounts (i.e. basis) when he or she receives a distribution from a 401(k) plan or other plan containing both taxable and nontaxable amounts and a portion of the distribution is to be directly rolled over to a traditional IRA and another portion is to directly rolled over to one or more other plans such as a 401(k) or a Roth IRA. As described, the IRS' new position modifies the pro-rata taxation rule in a radical manner. It does

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How and When Does the 5-Year Rule Apply to a Beneficiary of an Inherited Traditional IRA?

In the August issue, we reminded IRA custodians that if an IRA accountholder had died prior to his or her required beginning date, had died during 2008 or 2009, and the nonspouse beneficiary had elected to use the 5-year rule, then the beneficiary will need to close such IRA by December 31, 2014 or the 50% tax would be owed.

If the nonspouse beneficiary had not elected to use the 5-year rule, then the life distribution rule was to used. Under the life distribution rule, a required distribution is required for each year commencing after the year of the accountholder's death. In March of 2002 the IRS rewrote its model traditional IRA forms to provide the rule that 5-year rule will only apply to a beneficiary if the IRA accountholder died before his or her required beginning date and if the beneficiary had elected to use the 5-year rule. Before 2002 the IRS had written its model traditional IRA forms to provide that a nonspouse beneficiary of an IRA accountholder who had died before his or her required beginning age was required to use the 5-year rule unless he or she had elected to use the life distribution rule.

Time goes quickly. Since 2002 many IRA custodians have been merged, bought or sold. You may wish to review

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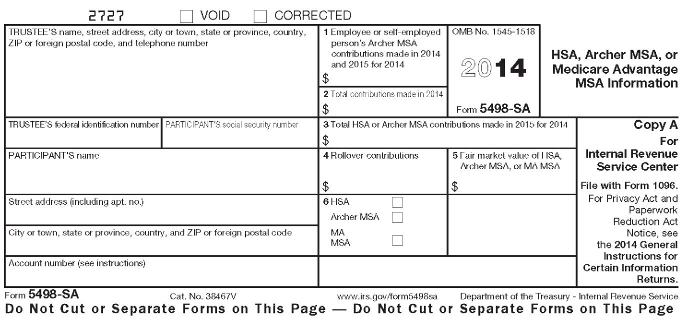
Revisiting the Topic of IRS Reporting and Non-Reporting of 2014 HSA Contributions

An HSA custodian/trustee must prepare the 2014 Form 5498-SA correctly or the IRS may assess a $50.00 penalty for each incorrect form.



2727 VOID CORRECTED

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

1 Employee or self-employed person's Archer MSA contributions made in 2014 and 2015 for 2014 $

2 Total contributions made in 2014 $

OMB No. 1545-1518 2014 Form 5498-SA

HSA, Archer MSA, or Medicare Advantage MSA Information

TRUSTEE'S federal identification number | PARTICIPANT'S social security number

3 Total HSA or Archer MSA contributions made in 2015 for 2014 $

Copy A For Internal Revenue Service Center

PARTICIPANT'S name

4 Rollover contributions $

5 Fair market value of HSA, Archer MSA, or MA MSA $

File with Form 1096.

Street address (including apt. no.)

6 HSA / Archer MSA / MA MSA

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

For Privacy Act and Paperwork Reduction Act Notice, see the 2014 General Instructions for Certain Information Returns.

Account number (see instructions)

Form 5498-SA Cat. No. 38467V www.irs.gov/form5498sa 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

Some HSA custodians have apparently been convinced by various insurance companies, their data processor or their HSA clients that it is permissible to not report certain HSA contributions on the 2014 Form 5498.

Hypothetical Situation. Jane Doe, age 41, has decided to incur an $800 medical expense. She has an HSA with a balance of $2500. She has $450 in her checking account. For reasons discussed below it would be best if Jane could either obtain a short term loan or convince the service provider to accept $450 now and the rest to be paid once the HDHP pays what it is supposed to pay. However, the service provider informs her she must pay the $800 immediately or she must wait. So, Jane withdraws the $800 from her HSA and pays the provider.

Three weeks later the insurance company reimburses her $600 as the insurance company determines it was obligated to pay $600 under the HDHP. Jane contributes this $600 reimbursement payment to her HSA. And then Jane wants to adopt the same approach for all of her medical bills. She pays them with funds from her HSA and then returns the insurance payments to her HSA. She has been told by the insurance company and some other HSA custodians that the HSA custodian is not required to report these HSA contributions.

Who is right? Jane, of course, thinks the HSA custodian who does not report such contributions on the Form 5498-SA must be right and the HSA custodian who believes such HSA contributions must be reported on the Form 5498-SA is wrong.

Is it permissible for the HSA custodian to treat the $600 and similar contributions as nonreportable for purposes of preparing the Form 5498-SA?

Except as discussed below, CWF is aware of no IRS authority allowing the HSA custodian to not report the $600 as an annual contribution subject to the annual limit. At a minimum the IRS may assess a fine of $50.00 for each Form 5498-SA prepared in error.

HSAs are created pursuant to federal income tax laws. The proper and conservative approach is - one (whether the HSA owner or the HSA custodian) takes an action only if the law or a regulation expressly authorizes one to take such action. The less prudent approach is, a person will take the action since he or she has been unable to find anything in writing specifically saying it cannot be done.

Apparently some insurance companies and some data processing providers have come to believe that it is permissible for the HSA custodian to not report such "reimbursement" contributions. We at CWF have not been furnished (or read) anything in writing by such companies citing their authority for believing that such contributions need not be reported. If your data processor is informing you that it is permissible to not report Jane's $600 contribution and similar contributions, ask for the person to "put it in writing." And then ask someone else at the company whether this is the position of the company. Ask if the company will pay the IRS fine if assessed by the IRS.

In CWF's opinion these companies are wishing the law has been written differently than it has been. The HSA is to reimburse the individual and not vice versa. Although one can argue the law should have been written to allow the HDHP to reimburse a person's HSA, the law was not so written.

The IRS instructions for the Form 5498-SA make clear that all contributions (except certain transfers, certain

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HSA Contributions,
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employer contributions and mistaken distributions are to be reported. See the excerpts of the IRS instructions set forth on page 4.

CWF's summary for reporting HSA contributions.

1. The total of the HSA contributions made in 2014 is to be entered in Box 2 and rollover contributions are to be entered in box 4. Rollovers are not reported in box 2. A person is authorized to only make one rollover contribution during a 12 month period. An impermissible rollover contribution is to be reported in box 2. The contribution made in 2014 could either be made for tax year 2013 or 2014. The HSA custodian should obtain the HSA owner's designation of the year for which an HSA contribution is made if made between January 1st and April 15th.
2. Qualified HSA Funding Distributions are to be reported in box 2 as they count against the maximum annual limit. They are not to be reported in boxes 3 or 4.
3. Enter the total HSA contributions made in 2015 for 2014.
4. Transfer contributions (custodian to custodian) are <u>not</u> to be reported in boxes 2, 3 or 4.
5. The repayment of a mistaken distribution is <u>not</u> be reported as a contribution in either box 2 or 3. An HSA owner has the right to repay a mistaken distribution no later than April 15th following the year he or she knew or should have known that a distribution was a mistaken distribution. A distribution will be a mistaken distribution only if the HSA owner paid the medical expense from the HSA because he or she believed the HDHP would not be paying the medical expense. Jane's withdrawals are not mistaken distributions, at least not after the first one.
6. In Notice 2008-59, Q/A 24, the IRS declared that there are two situations when an employer has the right to ask the HSA custodian to return to it an HSA contribution it had mistakenly made to an employee's HSA. In such case, such contribution is <u>not</u> to be reported in box 2, 3 or 4. In all other cases, employer contributions may not be returned to the employer and must be reported on the Form 5498-SA.

An HSA owner has the primary duty to determine whether or not he or she has made an excess HSA contribution. See the separate article on page

An HSA owner has the primary duty to determine the tax consequences when he or she withdraws funds from the HSA and whether such funds are non-taxable if used to pay a qualified medical expense. However, in Jane's situation, the $500 she withdrew she did not use it to pay a qualified medical expense as the HDHP paid that expense. Since she did not use the $500 to pay a qualified medical expense, she will need to include the $500 in income and also owe the 20% tax or $100 unless she would meet an exception or unless she was eligible to rollover such distribution. In summary, almost all HSA contributions must be reported on the Form 5498-SA. There is no special exception which authorizes Jane or any other HSA owner to make a non-reportable HSA contribution on account of the HDHP sending a reimbursement check to the HSA owner. Such a reimbursement could be rolled over assuming the HSA owner has not rolled over another distribution occurring within the preceding 12 months. Otherwise the contribution will count against the individual's maximum HSA contribution and could result in an excess contribution with the related adverse tax consequences.

Excerpts from 2014 Instructions for Forms 1099-SA and 5498-SA

Specific IRS Instructions for Form 1099-SA

Transfers. Do not report a trustee-to-trustee transfer from one Archer MSA or MA MSA to another Archer MSA or MA MSA, one Archer MSA to an HSA, or from one HSA to another HSA. For reporting purposes, contributions and rollovers do not include transfers.

HSA mistaken distributions. If amounts were distributed during the year from an HSA because of a mistake of fact due to reasonable cause, the account beneficiary may repay the mistaken distribution no later than April 15 following the first year the account beneficiary knew or should have known the distribution was a mistake. For example, the account beneficiary reasonably, but mistakenly, believed that an expense was a qualified medical expense and was reimbursed for that expense from the HSA. The account beneficiary then repays the mistaken distribution to the HSA.

Under these circumstances, the mistaken distribution is not included in gross income, is not subject to the additional 20% tax, and the repayment is not subject to the excise tax on excess contributions. <u>Do not treat the repayment as a contribution on Form 5498-SA</u>.

As the trustee or custodian, you do not have to allow beneficiaries to return a mistaken distribution to the HSA. However, if you do allow the return of the mistaken distribution, you may rely on the account beneficiary's statement that the distribution was in fact a mistake. See Notice 2004-50, 2004-33 I.R.B. 196, Q/A-76, available at www.irs.gov/irb/2004-33_IRB/ar08.html. Do not report the mistaken distribution on Form 1099-SA. Correct any filed Form 1099-SA with the IRS and the account beneficiary as soon as you become aware of the error. See Corrected Returns on Paper Forms in the 2014 General Instructions for Certain Information Returns for more information.

Specific Instructions for Form 5498-SA

File Form 5498-SA, HSA, Archer MSA, or Medicare Advantage MSA Information, with the IRS on or before June 1, 2015, for each person for whom you maintained an HSA, Archer MSA, or Medicare Advantage MSA (MA MSA) during 2014. You are required to file if you are the trustee or custodian of an HSA, Archer MSA, or MA MSA. A separate form is required for each type of plan.

For HSA or Archer MSA contributions made between January 1, 2015, and April 15, 2015, you should obtain the participant's designation of the year for which the contributions are made.For repayment of a mistaken distribution amount, see HSA mistaken distributions, earlier. Do not treat the repayment as a contribution on Form 5498-SA.

Rollovers. You must report the receipt of a rollover from one Archer MSA to another Archer MSA, and receipt of a rollover from an Archer MSA or an HSA to an HSA in box 4.

Transfers. Do not report a trustee-to-trustee transfer from one Archer MSA or MA MSA to another Archer MSA or MA MSA, from an Archer MSA to an HSA, or from one HSA to another HSA.

Box 2. Total Contributions Made in 2014

Enter the total HSA or Archer MSA contributions made in 2014. Include any contribution made in 2014 for 2013. Also include qualified HSA funding distributions (trustee-to-trustee transfers from an IRA to an HSA under section 408(d)(9)) received by you during 2014. Any excess employer contributions (and the earnings on them) withdrawn by the employer pursuant to Notice 2008-59, Q/A 24, available at www.irs.gov/irb/2008-29_IRB/ar11.html, should not be reported as a contribution. You may, but you are not required to, report the total MA MSA contributions the Secretary of Health and Human Services or his or her representative made in 2014. Do not include amounts reported in box 4.

Box 3. Total HSA or Archer MSA Contributions Made in 2015 for 2014

Enter the total HSA or Archer MSA contributions made in 2015 for 2014.

Box 4. Rollover Contributions

Enter rollover contributions to the HSA or Archer MSA received by you during 2014. These amounts are not to be included in box 2.

Box 5. Fair Market Value of HSA, Archer MSA, or MA MSA

Enter the FMV of the account on December 31, 2014.Box 6. Checkbox Check the box to indicate if this account is an HSA or Archer MSA.

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Communicating to HSA Owners About Excess Contributions for 2014

Some HSA owners are making permissible contributions to their HSAs. Some HSA owners are making excess contributions or impermissible contributions. It is important for HSA owners to have an understanding how excess contributions arise and that they must be corrected or adverse tax consequences will result.

An excess contribution may arise from contributions made by the eligible individual, his or her employer, or any contributor, Excess contributions arise when the contribution exceeds the individual's maximum contribution limit or the contribution is a non-qualifying rollover or transfer.

Article III of Form 5305-C imposes on the HSA account owner the duty to determine whether the contribution limits as set forth in Article II have been exceeded. For 2014, this limit is $7,550. If so, an excess contribution has been made. The HSA account owner then must notify the HSA custodian and request withdrawal of the excess contributions plus earnings, if any.

It is important that the HSA owner understands that he or she is primarily responsible to monitor and correct any excess HSA contributions. The HSA custodian is NOT primarily responsible for most excess HSA contribution situations. The HSA custodian duty to monitor for excess HSA contribution is limited to one situation.

Article I of the HSA model form (5305-C) provides that "No contributions will be accepted by the Custodian for any account owner that exceeds the maximum amount for family coverage plus the catchup contribution."

This sentence defines the maximum amount which can be contributed to an HSA. This maximum contribution amount is a separate subject from excess contributions, but it is related. By definition a contribution in excess of the family contribution limit as increased by the catch-up contribution amount will be an excess contribution.

The sentence above requires the HSA custodian to monitor the limit of $7,550 (maximum amount for family coverage ($6,550) plus the catch-up contribution ($1,000)) for 2014.

The HSA custodian is not to accept regular HSA contributions for a given year in excess of $7,550.

For the 2014 Form 5498-SA, total contributions made in 2014 (some could be for 2009) are reported in box 2 and then contributions made in 2015 for 2014 are reported in box 3. The HSA software must be able to determine the total HSA contributions for tax year 2014 and then determine if the $7,550 limit has been exceeded.

Once the limit of $7,550 is reached, there should be an administrative report generated by the computer system notifying the HSA custodian of a person's excess and the need to correct it as soon as possible.

There is no IRS requirement for the HSA custodian to track the limit for a person who has single HDHP coverage.

CWF recommends that an HSA custodian furnish its HSA owners with a disclosure as set forth below discussing the excess contribution subject.

"You, as the HSA owner, are responsible to determine whether or not an excess contribution has been made to your HSA for a given year. There are a number of reasons for this. The amount you are eligible to contribute is determined by whether you have single or family HDHP coverage. You may not have been eligible to make HSA contributions for the entire year and this can affect your permissible contribution amount. We as your HSA custodian, only have a limited duty in monitoring excess contributions.

If you fail to correct the excess HSA contribution by the deadline, you will owe the 6% excise tax for such year and when you finally do withdraw the excess contribution, you will also be required to include such distribution in your income and pay the applicable tax as it was not used to pay a qualified medical expense and you will owe the 20% penalty tax unless you are age 65 or older or disabled. In order to avoid such adverse tax consequences you should withdraw any excess HSA contribution and the related income, if any, as soon as possible.

We as the HSA custodian must determine if any HSA owner has had current year contributions (2014), exceeding $7,550. If you believe you have made an excess HSA contribution, please inform us as soon as possible. You must generally withdraw an excess con-

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HSA Excess Contributions,
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tribution (plus related earnings) by your tax filing deadline or you will owe the 6% excise tax." ◆

IRS Expands the Rules,
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not eliminate the pro-rata rule.

The new rules will apply to distributions made on or after January 1, 2015. The IRS has also issued guidance as to what rules apply to distributions occurring before January 1, 2015. The IRS has stated it will modify the safe harbor rollover explanations for pension plan distributions it has previously furnished. An explanation of the new allocation rules will be set forth in the revised safe harbors.

In Notice 2009-68 the IRS had furnished guidance confirming that a pro-rata taxation rule must be applied when a person with both pre-tax and after-tax funds within a QP takes a distribution from a plan containing both types of funds. For example, a person who had $100,000 in her 401(k) comprised of $80,000 being taxable and $20,000 be nontaxable was NOT allowed to directly rollover only the $20,000 of nontaxable portion into her Roth IRA.

As result of this notice, the person described above will be able to directly rollover the $20,000 of nontaxable funds into her Roth IRA and the remaining taxable funds of $80,000 into her traditional IRA.

An individual will no longer be required to follow the complicated procedures as discussed in the July, 2013, Pension Digest in order to be contribute the $20,000 of after-tax dollars into her Roth IRA.

What are the new allocation rules?

Rule #1. A person will be treated as receiving a single distribution even if the funds are sent to multiple destinations such as a portion to a traditional IRA, a portion to a Roth IRA, or a portion to another 401(k) plan. This true even if multiple distributions from the same plan are considered made as of the same time. This is true even if there are actual differences due to administrative timing issues.

Rule #2. If the pre-tax amount is less than the amount which is directly rolled over to one or more eligible plans, then the entire pre-tax amount is assigned to the distribution amount which was directly rolled over and the participant may select how the pre-tax amount is allocated among the multiple plans. The participant must inform the plan administrator of the allocation prior to the time of the direct rollover(s).

Rule #3. If the pre-tax amount equals or exceeds the distribution amount directly rolled over to one or more eligible plans, the pre-tax amount is assigned to the portion which was directly rolled over up the amount of the direct rollovers. Each direct rollover would consist solely of pretax amounts. If there are any remaining pre-tax amounts, such amounts will be assigned to any standard rollover up to the amount of such standard rollovers. If there is a pre-tax amount remaining after all direct rollovers and standard rollovers, then any remaining pre-tax amount is to be included in the person's income. A standard rollover is when the distribution has been made to the person who then complies with the standard rollover rules.

If the remaining pre-tax amount is less than the amount rolled over in the standard rollovers, then the individual can select how to allocate the pre-tax amount among such plans. If the amount rolled over to an eligible retirement plan exceeds the portion of the pre-tax amount assigned to the plans, the excess must be an after-tax amount.

In order to discuss these new rules the IRS furnished the following examples as modified by CWF. Employee A participant in a 401(k) and she has balance of $250,000 of which $200,000 is pre-tax and $50,000 is after tax. The plan covering Employee A does not authorize any Designated Roth contributions.

Example #1. Employee A instructs the plan administrator that she wishes to withdraw $100,000 with $70,000 being directly rolled over to a traditional IRA and the remaining $30,000 paid to her.

Under the new rules, the $70,000 directly rolled over to her traditional IRA arises solely from her pre-tax funds. This is so because the pre-tax amount ($80,000) exceeds the amount directly rolled over ($70,000) .

The other $30,000 is paid to Employee A. $10,000 of this $30,000 is taxable and the other $20,000 is non-taxable. Employee A does have the right to

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rollover such distribution (or a portion) as long as the 60 day rule is met. If Employee A only rolled over $10,000, it would be comprised of the remaining pre-tax funds.

If Employee A chooses to roll over $12,000, $10,000 would be pre-tax and $2,000 would be after- tax. If Employee A chooses to roll over the distribution(s) which were not directly rolled over, then the participant will need to decide how the pre-tax amount is allocated if there are multiple destinations. The participant must inform the plan administrator of the allocation prior to the time of the direct rollover (s) .

Example #2. The same facts apply as Example #I, except Employee A directly rollovers $82,000 and she is paid $18,000. She directly rolls over $50,000 to her new employer's qualified plan and she directly rolls over $32,000 to her traditional IRA. She has directly rolled over more than her pre-tax amount being withdrawn of $80,000.The new qualified plan does separately account for after-tax amounts. Since the direct rollover amount of $82,000 exceeds the pre-tax amount of $80,000 she has directly rolled over $2,000 of after-tax dollars.

She will have the right to allocate the pre-tax amount of $80,000 between the new qualified plan and the IRA. Conversely, she has the right to allocate the after-tax amount of $2,000 between the new qualified plan and the IRA She must do this prior to the time the direct rollover are made.

Example #3. The same facts apply as Example #2, except the new qualified plan does not account for after-tax contributions. This means the $2,000 of after-tax contributions must be allocated to the traditional IRA. Thus, the $50,000 directly rolled over to the qualified plan must all be pre-tax. The $32,000 directly rolled over to the IRA would be comprised of $2,000 of after-tax and $30,000 of pre-tax funds.

Example #4. The facts are the same as in Example #I, except the individual directly rolls over the entire $100,000 by sending $80,000 to a traditional IRA and $20,000 to a Roth IRA. She is able to allocate the pre-tax amount of $80,000 to the traditional IRA and the after-tax amount of $20,000 to the Roth IRA. Effective date of new rules and IRS reporting duties.

The new rules will apply to distributions occurring on or after January 1, 2015.

The IRS also discusses what rules will be applied for distributions occurring before January 1, 2015.

For distributions occurring between September 18, 2004, and December 31, 2014, taxpayers may apply a reasonable interpretation of the "old" rule or the "new" rule. Without a doubt, individuals with after-tax funds within an employer plan have been extremely hesitant to move such funds into a Roth IRA or a designated Roth IRA account as the law has been murky. The IRS has removed much of the uncertainty.

For distributions occurring before September 18, 2004, taxpayers may generally apply the same reasonableness standard as now applies to the remainder of 2014. However, this standard does not apply to any distribution from a designated Roth Account. In such case, the allocation of the pretax amounts must conform to the rules set forth in 402A regulation in effect on the date of the distribution.

These new rules may or may not require the IRS to rewrite its instructions for completing the Form 1099-R (Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.) . The IRS will be furnishing additional guidance. When a participant withdraws funds from an employer plan and such distribution includes a distribution of after-tax funds, box 5 must be completed to report such amount. It may be that each distribution may be reported on a separate Form 1099-R even though under the new rules multiple disbursements to different destinations are treated as a single distribution.

What About Designated Roth Funds?

Such funds arising from the individual's elective deferrals are after-tax funds and are not taxable when withdrawn by the participant. The distribution of the related earnings, however, will be taxable unless the distribution is a qualified distribution. The Roth regulation provides that such funds are treated as a separate contract from other accounts within the employer plan when applying the taxation rules. In plan English this means, the designated Roth funds are not aggregated with other

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5-Year Rule,
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your software as there will be times when older IRA software is still being used.

What if the IRA accountholder had died prior to 2008 such as in 2004 or 2007?

If the beneficiary had elected to use the 5-year rule, the inherited IRA should now be closed. If an IRA accountholder age 62 had died on March 13, 2004, then such inherited IRA was required to be closed by December 31, 2010. Normally, the deadline would have been December 31, 2009, but due to the RMD waiver for 2009, 2009 is not counted as one of the five years. If an IRA accountholder age 62 had died on March 13, 2007, then such inherited IRA was required to be closed by December 31, 2013. Normally, the deadline would have been December 31, 2012, but due to the RMD waiver for 2009, 2009 is not counted as one of the five years.

If an IRA custodian has such inherited IRAs, they should be closed as soon as possible. Note that the 5-year rule never applies if the IRA accountholder died on or after his or required beginning date.

What if one or more computer reports indicates that the 5-year rule is to be used?

An IRA custodian will wish to determine from its files if a beneficiary expressly elected to use the 5-year? If not, a strong argument can be made that the 5-year rule does not apply and the life distribution rule is to apply. That is, the traditional IRA may not need to be closed.

There are situations when the IRS model IRA form or the governing regulation mandates that the 5-year rule be used. First, if there is no designated beneficiary, the traditional IRA must be closed by using the 5-year rule. Secondly, the IRS has defined that if a non-living person is the designated beneficiary, such as his or her estate or a charity, then the inherited IRA must be closed by using the 5-year rule.

There are special rules applying to a qualified trust so that the qualified trust is able to use the life distribution rule. There is also a special rule allowing a beneficiary of a person who died prior to his or her required beginning date, but who was to use the life distribution rule since he or she did not expressly elect the 5-year rule to later be able to switch to the 5-year rule. For example, the IRA accountholder died as age 62 in 2010, but the nonspouse beneficiary for whatever reason did not take his or her required distribution for 2011-2013. He or she would owe the 50% tax for 2011-2013 unless the IRS would agree to allow the beneficiary to use the 5-year rule. Then the 50% tax would not be owed for 2011-2013, but the IRA would need to be closed by December 31, 2015.

An IRA custodian wishes to know those inherited IRAs subject to the 5-year rule as the 50% tax is owed if such inherited IRA is not closed by the applicable deadline and no one pays this tax happily.

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funds within the employer plan, including the earnings on such designated Roth funds.

A qualified distribution of the earnings related to the designated Roth funds is tax free (i.e. not includible in gross income). Currently, the Roth IRA regulations provide in part that "any amount paid in a direct rollover is treated as a separate distribution form any amount paid directly to the individual." Such regulation will be amended to adopt the new rule.

The IRS' release of Notice 2014-54 was unexpected. Taxpayers and their advisors will start to use these new rules immediately. Others will wait until January 1, 2015. Such rules will certainly make it easier for an individual to move after-tax funds into a Roth IRA or a designated Roth account where that fantastic goal of tax free income may be realized. CWF is proud of the fact that we had asked/suggested to the IRS in prior years to furnish additional guidance on some of these issues.

CWF will be suggesting to the IRS that it change its section 402(f) rules and direct rollover rules to require that the plan administrator furnish both the individual and the traditional or Roth IRA custodian (or plan administrator) a copy of the completed form whereon the individual sets forth his or her instructions regarding the allocation of the after-tax and pretax amounts. Without question these direct rollover plan transactions are becoming more complicated, and the IRS should adopt procedural changes so that all parties will be better informed.