The Pension Digest

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ALSO IN THIS ISSUE –

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

Seeking IRA Contributions by April 15, 2015

U.S.taxpayers are not taking advantage of IRAs as one would expect and hope. Many younger individuals have not grown up with IRAs being common. Many individuals do not understand that a person is able to contribute to both a traditional IRA and the 401(k) plan at work.

The IRS has recently released their tax data for tax year 2012. April 15th and the end of the 2014 tax year is close at hand. This is the deadline for contributions to a traditional IRA and a Roth IRA for 2014. The deadline for SEP-IRAs and SIMPLE-IRAs may be extended if a tax extension is in effect.

These 2012 IRA statistics show there is a substantial balance in IRAs (5.4 trillion dollars), with 86% of it (4.6 trillion) within traditional IRAs. This is primarily due to rollovers from 401(k) and other pension plans. These statistics also shows there should be larger "annual" IRA contributions. There were 198.6 million taxpayers for tax year 2012. 65.8 million individuals were covered by a pension plan and so they were active participants for IRA deduction purposes. There were 146.2 million taxpayers who were eligible to make either a traditional and/or Roth IRA contribution. Some individuals were only eligible to make non-deductible contributors. 80.4 million taxpayers were eligible to make deductible contributions as they had compensation and they were not covered by an employer sponsored pension plan. 11.3 million taxpayers made contributions to the four types of IRAs as set forth in Chart #1. $50.7 billion was contributed with 17.6 billion to Roth IRAs, 14.1 billion to traditional IRAs, 11.4 billion to SEP IRAs and 7.5 billion to SIMPLE IRAs. 135 million taxpayers were eligible to make an IRA contribution, but they chose not to do so. This number is much larger than it should be. The tax benefits of IRAs are substantial, but not so substantial that a large percentage of individuals make an IRA contribution.

As you would expect, the percentage of those individuals with higher incomes who make an IRA contribution is higher than the percentage applying to those with lesser incomes. But it is not as high as one would expect. For individuals who have adjusted gross incomes of $1 million or more, 413,157 out of a total of 718,895 are eligible to make a IRA contribution. Only 99,076 or 24% do so. In this day and age of financial planners one does wonder why the other 76% do not see the benefit to make an IRA contribution. For individuals who have adjusted gross incomes of $100,000 - $200,000, 21.7 million out of a total of 28.5 million are eligible to make a IRA contribution. Only 3.3 million or 15% do so. For individuals who have adjusted gross incomes of

Deadlines for 2014 5498 Forms

Type of Account	Type of Form	Due to Owner	Due to IRS
Traditional	5498	6/1/15	6/1/15
Roth	5498	6/1/15	6/1/15
HSA	5498-SA	6/1/15	6/1/15
CESA	5498-ESA	4/30/15	6/1/15

Continued on page 2

Contributions,
Continued from page 1

$50,000 - $75,000, 21.4 million out of a total of 28.7 million are eligible to make a IRA contribution. Only 1.9 million or 9% do so. It is 7.6% for those individuals with incomes between $40,000 - $50,000. It is 5.7% for those individuals with incomes between $30,000-$40,000.

For individuals who have adjusted gross incomes of less than $30,000, 56.0 million out of a total of 78.0 million are eligible to make a IRA contribution. Only 1.3 million or 0.2% do so.

Of the 11.3 million taxpayers who had IRA contributions, only 3.5 million were made by individuals who claimed a tax deduction on their personal tax returns. Remember that the 5.5 million Roth IRA contributions are unable to claim a tax deduction for their contributions. A total of 1.6 million taxpayers had a SIMPLE IRA contribution. Only 97,000 taxpayers claimed a deduction on their tax returns. This means that 1.5 million contributions are made by a business on behalf of its employees. A total of .98 million taxpayers had a SEP-IRA contribution. 383.6 thousand taxpayers did claim a deduction on their tax return. This indicates that many one person businesses have a SEP. However, small employers also will sponsor a SEP for their employees as the statistics show contributions being made for 600,000 employees.

All IRA custodians want to service those individuals rolling over funds from 401(k) plans and other IRAs. Rollover contributions totalled 300 billion in 2012. The average rollover was $74,800. The average rollovers into a Roth IRA was $18,000. Only 1.4% of rollovers went into a Roth IRA. This will certainly increase dramatically in future years as the law now permits individuals to rollover 401(k) funds directly into a Roth IRA. See the newsletter for an article discussing new IRS rules making it easier to rolling over basis into a Roth IRA. And individuals are increasing their Roth IRA conversions as 415,243 did a conversion which averaged $38,344. Under existing tax laws a person wants to maximize the amount he or she has in a Roth IRA. The various IRS charts as modified by CWF are set forth on page 3 . More people should be making IRA contributions than do. An excellent planning tool is not be used to the degree it should be. It is never too late to start making IRA contributions. Individuals should be making 401(k) contributions and IRA contributions and not just 401(k) contributions.

During the next 45-75 days a financial institution should be seeking IRA/SEP/SIMPLE-IRA contributions and Roth IRA contributions. The maximum IRA contribution limits for 4014 and 2015 is $5,500 if under age 50 and $6,500 if age 50 or older. The maximum SEP contribution for 2014 is $52,000 and $53,000 for 2015.

Business Opportunity – Serving IRA Owners Wanting to Impose Distribution Restrictions on an IRA (Traditional or Roth) Beneficiary

Most IRA owners probably do not understand that they have or could have the right to impose one or more distribution restrictions on an IRA beneficiary. The IRA agreement must authorize such a restriction.

Why do such a thing? A person may not want their children or grandchildren to spend their IRA inheritance too quickly. Some people will certainly be willing to pay reasonable fees for this additional service.

For example, Jane Smith has three children who are her Roth IRA beneficiaries. She has $90,000 in her Roth IRA. Since she opened her Roth IRA in 2004, each and every distribution from the inherited Roth IRA to her children will be qualified or tax free. The Roth IRA, if invested well should earn tax-free income for the next 30-60 years depending on the beneficiary's age.

In her beneficiary designation Jane could stipulate the following or something similar. Each year the beneficiary is to be paid his or her required distribution for such year by November 30th. Until the age of 30, each beneficiary is limited to withdrawing an amount no more than 300% of his or her required distribution for such year.

An IRA custodian/trustee will wish to negotiate reasonable fees to administer the restricted inherited IRA with the IRA owner prior to his death. It may be that the parties should agree the inherited Roth IRAs would only be able to transferred to another Roth IRA custodian/trustee if certain conditions would be met.

IRA funds may be very long term deposit and investment funds. Why not try to acquire such accounts?

Chart #1. Total Annual IRA Contributions

	Number of Taxpayers	%	Amount in Thousands	%	Avg.
Traditional	3,739,218	33.13	$14,123,120	27.84	$3777
SEP	980,760	8.69	$11,414,619	22.50	$ 11639
SIMPLE	1,614,258	14.30	$7,532,315	14.85	$4666
Roth	5,481,066	48.56	$17,658,161	34.81	$3,222
Total	11,287,438	100.00*	$50,728,216	100.00	$4494

Chart #2. Total Annual Deductible IRA Contributions

	Number of Taxpayers	%	Amount in Thousands	%	Avg.
Traditional	2,955,896	84.05	$11,660,860	60.71	$3,945
SEP	383,675	10.91	$6,462,683	33.65	$ 16,844
SIMPLE	97,089	2.76	$1,083,584	5.64	$11,161
Roth	0	0	0	0	0
Total	3,516,968	100.00	$19,207,127	100.00	$4,494

Chart #3. Rollover IRA Contributions for 2012

	Number of Taxpayers	%	Amount in Thousands	%	Avg.
Traditional	3,940,645	95.28	$300,950,521	97.24	$76,371
SEP	48,941	1.19	$3,973,038	1.28	$ 81,180
SIMPLE	0	0	0	0	0
Roth	243,694	5.89	$4,391,516	1.42	$18,021
Total	4,136,022	100.00	$309,489,917	100.00	$74,828

Chart #4. IRA FMV as of 12/31/12

	Number of Taxpayers	%	Amount in Thousands	%	Avg.
Traditional	41,553,905	79.31	$4,618,540,411	86.09	$111,145
SEP	3,023,108	5.77	$271,920,276	5.05	$ 89,947
SIMPLE	2,499,745	4.77	$71,664,189	1.33	$28,669
Roth	16,442,485	31.38	$403,000,525	7.51	$24,510
Total	52,391,792	121.23*	$5,365,325,401	100.00	$100,490

* This exceeds 100% as a person may have more than one type of IRA.

Missed RMDs - It's That Time of Year

January and February are often the months one realizes that last year's RMD was not taken. The mistake might be the IRA custodian's, the accountholder's or the inheriting beneficiary's.

The excise tax applying to a missed RMD is 50%, a very punitive tax rate. Congress since the passage of ERISA in 1974 has contemplated reducing this tax rate, but for whatever reason has not done so. No one likes to pay this tax.

The federal tax laws do grant the IRS the legal authority to waive this 50% tax if a person has a reasonable explanation why he or she failed to take it. IRS Form 5329 discusses how the taxpayer is to request the waiver of the 50% tax.

The IRS is not going to waive the tax if the accountholder or the beneficiary simply forgot to take the RMD. In most cases, in order for the IRS to grant a waiver there will need to be some medical situation, intervening accident, or a mistake by the IRA custodian. Someone just forgetting to take the distribution will normally be insufficient to obtain a waiver.

Missed RMDs will lead to unhappy customers and in extreme situations possibly a lawsuit.

Discussion from Form 5329.

Waiver of tax. The IRS can waive part or all of this tax if you can show that any shortfall in the amount of distributions was due to reasonable error and you are taking reasonable steps to remedy the shortfall. If you believe you qualify for this relief, attach a statement of explanation and file Form 5329 as follows.

1. Complete lines 50 and 51 as instructed.
2. Enter "RC" and the amount you want waived in parentheses on the dotted line next to line 52. Subtract this amount from the total shortfall you figured without regard to the waiver, and enter the result on line 52.
3. Complete line 53 as instructed. You must pay any tax due that is reported on line 53.

The IRS will review the information you provide and decide whether to grant your request for a waiver.

Two IRA custodian's recently called CWF with two missed RMD situations. In situation #1 a person age 75 transferred her entire IRA to her bank #1 in July 2014 and the 2014 RMD was not distributed by December 31, 2014. Set forth is a possible letter to be attached to the person's Form 5329 requesting the IRS to waive the 50% excise tax.

Dear IRS:

In (e.g. June) I transferred my IRA funds from my IRA with custodian #1 to my IRA with Custodian #2. I was informed by an IRA representative that it would distribute to me my 2014 RMD of $4,145.39 in November/December. I completed a distribution form. The distribution was not made in 2014 as it was missed. I am requesting that the IRS waive the 50% excise tax because I had relied on my IRA custodian to make the 2014 distribution.

The IRA custodian realized in early January 2015 that I had not been paid my 2014 RMD. The IRA custodian had me take this distribution as soon as possible. I understand that this amount will be included on my 2015 income tax return. Along with my 2015 RMD. See the attached letter from IRA custodian #2 describing its error. I believe the IRS should waive the 50% tax.

Please contact me if I need to furnish you any additional information.

Sincerely,

Client's Name

In situation #2 a married couple both age 85 forgot to take their 2014 RMDs by December 31, 2014. Both had an IRA balance around $85,000 so their RMDS were substantial, approximately $5,740 per person.

There 50% tax is $5,740. Set forth is our email guidance to the IRA custodian who did furnish the couple at least 2 reminders during 2014 that they had not yet withdrawn their RMDs for 2014.

Subject: Two Late RMD Distributions

The tax rule is a person includes an IRA distribution in their income in the year they receive it regardless if the distribution relates to a prior year. Thus, a distribution for 2014 withdrawn in 2015 is to be included on their 2015 tax return.

Your two IRA accountholders are in their 80's. If they failed to take their 2014 RMDs by 12/31/14, they owe the 50% excise tax unless the IRS would waive it. This is a substantial amount. It is their responsibility to report it on their 2014 tax return. If they would have a "good" reason explaining why they did not take their distributions by 12/31/14, they or their accountant could ask the IRS to waive the 50% tax. Form 5329 and the instructions for Part VIII should be reviewed.

Does one or both of them have some dementia? Was the IRA custodian at fault in any way? Was any one sick during December?

The bank will want to consider to what degree, if any, it will try to help them.

Form **5329**
Department of the Treasury
Internal Revenue Service (99)

Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts

► Attach to Form 1040 or Form 1040NR.
► Information about Form 5329 and its separate instructions is at *www.irs.gov/form5329*.

OMB No. 1545-0074
2014
Attachment Sequence No. **29**

Name of individual subject to additional tax. If married filing jointly, see instructions.			**Your social security number**
Fill in Your Address Only If You Are Filing This Form by Itself and Not With Your Tax Return	Home address (number and street), or P.O. box if mail is not delivered to your home		Apt. no.
	City, town or post office, state, and ZIP code. If you have a foreign address, also complete the spaces below (see instructions).		If this is an amended return, check here ► ☐
	Foreign country name	Foreign province/state/county	Foreign postal code

If you **only** owe the additional 10% tax on early distributions, you may be able to report this tax directly on Form 1040, line 59, or Form 1040NR, line 57, without filing Form 5329. See the instructions for Form 1040, line 59, or for Form 1040NR, line 57.

Part I **Additional Tax on Early Distributions**

Complete this part if you took a taxable distribution before you reached age 59½ from a qualified retirement plan (including an

Missing Text – intentional

Part VIII **Additional Tax on Excess Accumulation in Qualified Retirement Plans (Including IRAs)**

Complete this part if you did not receive the minimum required distribution from your qualified retirement plan.

See discussion on page 4.

50	Minimum required distribution for 2014 (see instructions)	50	
51	Amount actually distributed to you in 2014	51	
52	Subtract line 51 from line 50. If zero or less, enter -0-	52	
53	**Additional tax.** Enter 50% (.50) of line 52. Include this amount on Form 1040, line 59, or Form 1040NR, line 57	53	

Sign Here Only If You Are Filing This Form by Itself and Not With Your Tax Return

Under penalties of perjury, I declare that I have examined this form, including accompanying attachments, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

► Your signature ► Date

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
	Firm's name ►			Firm's EIN ►	
	Firm's address ►			Phone no.	

ROLLOVER CHART

1/23/2015

	Roll To							
Roll From	**Roth IRA**	**Traditional IRA**	**SIMPLE IRA**	**SEP-IRA**	**Governmental 457(b)**	**Qualified Plan[1] (pre-tax)**	**403(b) (pre-tax)**	**Designated Roth Account (401(k), 403(b) or 457(b))**
Roth IRA	YES[2]	NO	NO	NO	NO	NO	NO	NO
Traditional IRA	YES[3]	YES[2]	NO	YES[2]	YES[4]	YES	YES	NO
SIMPLE IRA	YES,[3] after two years	YES,[2] after two years	YES[2]	YES,[2] after two years	YES,[4] after two years	YES, after two years	YES, after two years	NO
SEP-IRA	YES[3]	YES[2]	NO	YES[2]	YES[4]	YES	YES	NO
Governmental 457(b)	YES[3]	YES	NO	YES	YES	YES	YES	YES[3,5]
Qualified Plan[1] (pre-tax)	YES[3]	YES	NO	YES	YES[4]	YES	YES	YES[3,5]
403(b) (pre-tax)	YES[3]	YES	NO	YES	YES[4]	YES	YES	YES[3,5]
Designated Roth Account (401(k), 403(b) or 457(b))	YES	NO	NO	NO	NO	NO	NO	YES[6]

[1] Qualified plans include, for example, profit-sharing, 401(k), money purchase and defined benefit plans
[2] Only one rollover in any 12-month period
[3] Must include in income
[4] Must have separate accounts
[5] Must be an in-plan rollover
[6] Any amounts distributed must be rolled over via direct (trustee-to-trustee) transfer to be excludable from income
For more information regarding retirement plans and rollovers, visit Tax Information for Retirement Plans.

The IRS rollover chart provides the following guidance:

1. Roth IRA funds are only eligible to be rolled over to another Roth IRA. They are ineligible to be rolled over to any other type of IRA or any qualified plan, 403(b) plan or governmental 457(b) plan, including a Designated Roth account.
2. The once per year rollover rule applies when there is a distribution from a traditional IRA, SEP-IRA, SIMPLE IRA or Roth IRA distribution which is rolled over to a traditional, SEP IRA, SIMPLE-IRA or Roth IRA.
   It does not apply to distributions from any non-IRA plan.
   It does not apply to distributions from a traditional IRA, SEP IRA or SIMPLE IRA which is rolled over to a qualified plan, 403 (b) plan or governmental 457 (b) plan.
3. Funds within any non-SIMPLE IRA or any plan are ineligible to be rolled over into a SIMPLE IRA.
4. SIMPLE IRA funds may be distributed and rolled over into any other type of plan only if such rollover occurs after the 2 year holding requirement has been satisfied.
5. Funds within any of the 4 types of IRAs are ineligible to be rolled over in a Designated Roth account within a 401 (k) , 403 (b) or 457 (b) plan.
6. Funds within a qualified plan, 403(b) plan or gov-

Continued on page 7

The Pension Digest

Rollover Chart,
Continued from page 6

ernmental 457 plan may be rolled into a Designated Roth account within a 401(k), 403b) or section 457b only if done as an in-plan rollover. Such distribution amount is includible in income.

7. Designated Roth funds may be distributed and rolled over into a Roth IRA or they may be transferred into a Designated Roth account within a different plan. That is, Designated roth funds cannot be withdrawn and then rolled over by the participant.

Observe that there are some special rollovers not discussed by the IRS chart.

1. IRA to HSA direct rollovers.
2. Direct rollovers by both spouse beneficiaries and nonspouse beneficiaries.

Be aware that this chart was issued/revised on 1/23/15. This rollover chart is NOT the same as the one set forth in the 2014 version of Publication 590A (Contributions to IRAs). The difference is the 1/23/15 version includes 6 footnotes under the chart whereas the one in Pub 590A only has 5 footnotes. Remember, the 2014 Pub 590A is to be used for 2014 tax purposes and the old rollover rule still applied for 2014 tax purposes. The new footnote "2" has been added to cover the new once per year rollover rule. This rule applies for 2015 and later rollovers.

Impermissible Rollovers and Direct Rollovers

The IRS has issued a chart covering the rollover contributions authorized by and between IRAs and pension plans. CWF has modified this chart by also covering inherited IRAs. The approach of the law – the making of a rollover contribution must be authorized by federal tax laws. If there is no such authorization, the contribution would have to qualify as a current year annual contribution and most would not. An ineligible rollover contribution is an excess contribution and must be corrected or the 6% excise tax will apply.

This article takes the approach of listing movements of IRA, 401(k), other pensions, Coverdell ESAs and HSA which have <u>NOT</u> been authorized. A financial institution must not process such transactions as a rollover as they do not qualify.

A rollover is defined to be – there is an actual distribution from Plan #1 to a person who then makes a rollover contribution to Plan #1 or Plan #2.

A direct rollover is - there is no actual distribution to a person, but the funds from Plan #1 are sent to Plan #2 on behalf of the individual.

Four different categories will be discussed and impermissible rollovers are listed.

Category #1. The only plan authorized to accept a Roth IRA contribution is the same or another Roth IRA.

Roth IRA ≠ 401(k)/403(b)/457 With or Without Design Roth Account Funds.
Roth IRA ≠ Traditional IRA
Roth IRA ≠ SEP-IRA
Roth IRA ≠ SIMPLE-IRA
Roth IRA ≠ Coverdell ESA

Category #2. The law does not permit any funds to be rolled into a SIMPLE-IRA which are not already SIMPLE-IRA funds.

Traditional IRA ≠ SIMPLE-IRA
SEP-IRA ≠ SIMPLE-IRA
401(a)/401(k)/403(b)/457 ≠ SIMPLE-IRA
Coverdell ESA ≠ SIMPLE-IRA

Category #3. The law does not permit any funds to be rolled into a Coverdell ESA unless such funds are already Coverdell ESA funds or unless the funds are coming from an Archer MSA. There is also an exception for SGLI and death gratuity payments. The only place funds in a Coverdell ESA may be rolled over to would be another Coverdell ESA or a state tuition program under section 529.

Traditional IRA ≠ Coverdell ESA
SEP-IRA ≠ Coverdell ESA
SIMPLE-IRA ≠ Coverdell ESA
401(a) /401(k)/1403(b)/1457 ≠ Coverdell ESA
Coverdell ESA ≠ Traditional IRA
Coverdell ESA ≠ SEP-IRA

Continued on page 8

Rollovers,
Continued from page 7

Coverdell ESA ≠ SIMPLE-IRA

Coverdell ESA ≠ Roth IRA

Coverdell ESA ≠ 401(a)/401(k)/1403(b)/1457

Coverdell ESA ≠ Archer MSA

Coverdell ESA ≠ HSA

Category #4. The law does not permit any funds to be rolled into an HSA unless such funds are already HSA funds or unless the funds are coming from a traditional IRA, Roth IRA or nonactive SEP-IRAs and SIMPLE-IRAs. HSA funds cannot be rolled over into any IRA or pension plan.

401(a)/401(k)/403(b)/457 ≠ HSA

Coverdell ESA ≠ HSA

SEP-IRA ≠ HSA*

SIMPLE-IRA ≠ HSA**

HSA ≠ Traditional IRA

HSA ≠ SEP-IRA

HSA ≠ SIMPLE-IRA

HSA ≠ Roth IRA

HSA ≠ 401(a)/401(k)/403(b)/457

HSA ≠ Coverdell ESA

*If the SEP-IRA is on-going, that is, there have been current-year contributions.

**If the SIMPLE-IRA is on-going, that is, there have been current-year contributions.

Email Guidance on the Once Per Year Rollover Rule – Individuals Already Being Caught and Subject to Big Tax Bills

Q-1. I have a customer who is wanting to open a Traditional IRA as a Rollover and a Roth as a Rollover. Two separate checks, issued the same day from the same financial institution. As the new rule one rollover per individual this is not acceptable correct? It is my understanding that these are not from a 401(k) or other qualified plans. Thank you

A-1. You are correct if there were two distributions, one from a traditional IRA and one from a Roth IRA. The individual is eligible to roll over only one of the distributions and he or she will have decide which of the two to rollover.

The once per 12 month rule does not apply if the distributions came from a 401 (k) plan or similar plan.

Q-2. Will the once per year rollover rule apply to a person who inherits their spouse's IRA or IRAs?

A-2. A spouse who is the sole beneficiary of their deceased spouse's IRA(s) does have the right to treat as own which is a type of nonreportable transfer.

A spouse who is not the sole beneficiary cannot elect to treat his or her deceased spouse's IRA as his or her own. He or she will need to take a distribution and roll it over. Until the IRS states otherwise, it appears the once per year rollover rule does apply. This means a spouse who is not the sole beneficiary and who spouse will be able to rollover such inherited IRAs only if he or she will comply with the once per year rule.

For example, Jane Doe withdrew funds from her traditional IRA on September 15, 2014 and rolled them over within her 60 day period. Her husband, John, died on January 30, 2015 and she is not the sole beneficiary. She may take a distribution from the inherited Roth IRA on February 20, 2015 and roll it over, but she need to wait until February 20, 2017 to take a distribution from the traditional IRA and then roll it over or vice versa.

Q-3. Will a person who takes a distribution from their traditional IRA and then rolls it over or directly rolls it over to his/her employers 401(k) plan have to comply with the once per year rollover rule?

A-3. The 2015 Rollover Chart can be read that the once per year rule does <u>not</u> apply in this situation. The IRS should issue additional guidance. One would think the rule should apply as it applies to any IRA distribution. There is no statutory exception because the funds are moving to a pension plan.