THE Pension Digest

March 2015
Published Since 1984

ALSO IN THIS ISSUE –

IRS Guidance - Errors on Form 5498 by Custodian May Cause Tax Trouble For Everyone

The IRS is short of staff and so the IRS may not be as tolerable of mistakes in preparing the 2014 Form 5498 as in prior years. In general, the penalty for preparing an incorrect Form 5498 is $50.00 for each incorrect form furnished to the accountholder and $50.00 for each incorrect form furnished to the IRS. Mistakes may be very costly.

In recent guidance the IRS reminds IRA custodians that mistakes may be avoided by checking the information before it is sent to the IRS and furnished to the individual. The IRS cited four common mistakes.

1. Reporting the IRA contribution for the wrong year.

CWF believes primary fault is with the IRS as the IRS has never adopted procedures where if the individual does not clearly designate a contribution as being for a specific year the right to do so is lost. The current IRS procedure apparently is to always allow the individual to change his or her mind as to the tax year for which a contribution is made. The IRS needs to adopt the rule, the contribution will be processed for the current year unless designated for the prior year and it is too late to change it after October 15.

2. Failing to report the contribution as a conversion from a traditional IRA to a Roth IRA.

Roth IRA conversion contributions made from January 1, 2014 to December 31, 2014, are to be reported in box 3 of the 2014 Form 5498 for the Roth IRA. That is, funds within a traditional IRA, SEP-IRA or SIMPLE are moved to a Roth IRA. An individual is willing to include such amount(s) in his or her income and pay taxes now rather than in later years.

Conversion reporting errors occur for a number of reasons. First, IRA personnel sometimes do not understand that there is a difference between a Roth IRA conversion contribution and a Roth IRA recharacterization contribution. They are two different transactions and there will be tax reporting problems if they are mixed-up. The IRA software must have different transaction codes for these different transactions. Secondly conversion reporting errors occur because the IRA software sometimes does not make it very clear or does not allow the proper reporting of a conversion contribution. That is, it is not always the IRA custodian's personnel mistake. The number of conversion contributions has been relatively small, at least when the funds have been invested in savings and time deposits. Consequently, the IRA software vendors have not updated their IRA software to perform the conversion and recharacterization tasks more efficiently.

Deadline for 2014 Form 5498 Is June 1, 2015

The deadline to furnish the 2014 Form 5498 to the IRS, IRA accountholders, and inheriting IRA beneficiaries is June 1, 2015 since May 31 is a Sunday.

Continued on page 6

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

Final Review 2014 Form 5498

2828 ☐ VOID ☐ CORRECTED

TRUSTEE'S or ISSUER'S name, street address, city or town, state or province, country, and ZIP or foreign postal code		1 IRA contributions (other than amounts in boxes 2-4, 8-10, 13a, and 14a) $	OMB No. 1545-0747 2014	IRA Contribution Information
		2 Rollover contributions $	Form 5498	
		3 Roth IRA conversion amount $	4 Recharacterized contributions $	Copy A
TRUSTEE'S or ISSUER'S federal identification no.	PARTICIPANT'S social security number	5 Fair market value of account $	6 Life insurance cost included in box 1 $	For Internal Revenue Service Center File with Form 1096.
PARTICIPANT'S name		7 IRA ☐ SEP ☐	SIMPLE ☐ Roth IRA ☐	For Privacy Act and Paperwork Reduction Act Notice, see the 2014 General Instructions for Certain Information Returns.
		8 SEP contributions $	9 SIMPLE contributions $	
Street address (including apt. no.)		10 Roth IRA contributions $	11 Check if RMD for 2015 ☐	
		12a RMD date	12b RMD amount $	
City or town, state or province, country, and ZIP or foreign postal code		13a Postponed contribution $	13b Year / 13c Code	
		14a Repayments $	14b Code	
Account number (see instructions)		15a FMV of certain specified assets $	15b Code(s)	

1. **On the bottom left** there is an "Account Number" box. The IRA custodian is required to insert an account number in this box when filing more than one Form 5498 for the same person. If your institution wants to earn some bonus points with the IRS, you will complete this box even though it is not required. A unique number should be used. Using such a number helps the IRS to process corrected information accurately. The account number may be a checking or savings account number or some other unique number with respect to an individual. The number must not appear anywhere else on the form (i.e. it cannot be the social security number).
2. **In Box 7** only one of the 4 boxes must be checked to indicate the type of IRA. A person who has a traditional IRA, SEP IRA and Roth IRA would need to be furnished three 5498 forms.
3. **Box 1. IRA Contributions** (other than amounts in boxes 2-4, 8-10, 13a and 14a). Enter the amount of the annual contributions made on or after January 1, 2014 through April 15, 2015 as designated for 2014. The IRA custodian is to report the gross amount of the annual contributions even if such contributions are excess contributions, or will be later recharacterized. These are still to be reported. A traditional IRA contribution, which is not properly reported in one of the other traditional IRA boxes as discussed below, is to be reported in box 1. For example, if a person tries to roll over $28,000, but does so on day 70 and the IRA custodian learns of this fact prior to filing the current year's Form 5498, then the IRA custodian must report this $28,000 in box 1. This same procedure would apply if somehow non-IRA funds had been mistakenly transferred into an IRA.
4. **Box 2. Rollover Contributions.** Enter the amount of the rollover contributions made on or after January 1, 2014 through December 31, 2014. Made means received by the traditional IRA custodian. Also, enter those contributions which are treated as a rollover contribution (i.e. direct rollover).

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

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

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

   A direct rollover occurs when an employer plan issues the check to the IRA custodian on behalf of the individual. By definition, a direct rollover cannot occur between IRAs. Employer plan means a qualified plan, section 403(b) plan or a governmental section 457(b) plan. The funds attributable to a nonspouse beneficiary of such plans are eligible to be directly rollover to an inherited IRA and would be reported in Box 2.
5. **Box 3. Roth IRA Conversion Amount.** This box will be completed when a conversion contribution is made to a Roth IRA.
6. **Box 4. Recharacterized Contributions.** The IRS instructions are very brief, "Enter any amounts recharacterized plus earnings from one type of IRA to another." If a person had made either an annual contribution or a conversion contribution to a Roth IRA in either 2013 and/or 2014, he or she may elect to recharacterize it as adjusted by earnings or losses to be traditional IRA contribution in 2014. The total amount recharacterized is to be reported in box 4.

Continued on page 3

5498 Review,
Continued from page 2

Although the IRS instructions use the term, "plus earnings", the IRS should use the term, "plus or minus earnings or losses."

7. **Box 5. Fair Market Value of Account.** The IRS instructions for this box are also very brief, "Enter the FMV of the account on December 31."

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

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

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

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

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

8. **Box 6. Life Insurance cost included in box 1.** An IRA custodian will normally leave this box blank or will insert a 0.00 since it is only to be completed if there was a contribution to an IRA endowment contract as sold by an insurance company a long time ago.

9. **Box 8. SEP Contributions.** Any SEP contributions made to the IRA custodian during 2014 are to be reported in box 8. Such contributions could have been for 2013 or 2014. Contributions made in 2015 for 2014 are to be reported on the 2015 Form 5498.

10. **Box 9. SIMPLE Contributions.** Any SIMPLE-IRA contributions made during 2014 are to be reported in box 9. Such contribution could have been for 2013 or 2014.

11. **Box 10. Roth IRA Contributions.** Any Roth IRA contributions for 2014 are to be reported in box 10 as long as made between January 1, 2014 and April 15, 2015.

12. **Box 11. Check if RMD for 2015.** An IRA custodian is required to check this box if the IRA accountholder attains or would attain age 70½ or older during 2015. The instructions do not discuss whether or not this box is to be checked for an inheriting traditional IRA beneficiary. It should not be checked for an inherited IRA. Completing this box is necessary only if the IRA custodian is required to prepare a 2014 Form 5498 for a person. This box is not checked with respect to an individual who died during 2014 and who would have attained age 70½ or older during 2015 had he or she lived.

13. **Boxes 12a (RMD date) and 12b (RMD Amount).** An IRA custodian's use of these two boxes is optional, it is not mandatory.

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

The approach adopted by the IRS is that a traditional IRA custodian by completing boxes 11, 12a and 12b on the Form 5498 and furnishing it to the

Continued on page 4

5498 Review,
Continued from page 3

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

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

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

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

    Under approach #1, the IRA custodian may choose to report the contribution for the year it is made. For example, if an individual in September of 2014 designated a contribution of $5,000 to a traditional IRA for 2012. The IRA custodian could choose to prepare a 2012 Form 5498 and report the $5,000 contribution in box 1. If the IRA custodian had not prepared a 2012 Form 5498 for this individual, the IRA custodian then would prepare an original 2012 Form 5498. If the IRA custodian had previously prepared a 2012 Form 5498 for this individual, the IRA custodian then would prepare a "corrected" 2012 Form 5498.

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

    AF - Allied Force
    EF - Enduring Freedom or
    IF - Iraqi Freedom
    FD - Affected taxpayers of designated disaster area.

    Definition. An individual who is serving in or in support of the Armed Forces in a designated combat zone or qualified hazardous duty area has an additional period after the normal contribution due date of April 15 to make IRA contributions for the prior year. The period of time is the time the individual was in the designated zone or area plus at least 180 days.

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

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

    QR - repayment to a qualified reservist
    DD - repayment of a federally designated disaster distribution.

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

16. **Box 15a. FMV of certain specified assets.** Completion of Boxes 15a and 15b are optional for 2014, but is mandatory for 2015. If you are an IRA custodian or trustee with IRA assets of which the fair market values are not readily determinable, you should review the August 2013 newsletter.

17. **Duty To Prepare/Furnish Corrected Form 5498.** An IRA custodian is required to prepare a corrected form 5498 as soon as possible after it learns there is an error on the original form as filed. The IRS furnishes the following example. "If you reported as rollover contributions in box 2, and you later discover that part of the contribution was not eligible to be rolled over and was, therefore, a regular contribution that should have been reported in box 1 (even if the amount exceeds the regular contribution limit), you must file a corrected For 5498. ◆

Limiting Form 5498 Errors,
Continued from page 1

Conversions and recharacterizations are different transactions. Like rollovers and transfers some individuals believe they are the same. They are different.

A "conversion" contribution coming from a 401 (k) is not reported as a conversion in box 3. Rather, it is reported in box 2 as a rollover contribution which it is. But it is also a conversion. The IRS decided to have this contribution reported in box 2 rather than box 3.

All software providers should revisit the subject of whether their Roth IRA software could be improved by making updating changes.

3. Issuing duplicate Forms 5498.

The IRS has adopted the procedure that an IRA custodian may furnish the 2014 Form 5498 in January of 2015 as long as it sends out a second Form 5498 for anyone who made a carryback contribution for 2014 during the period of January 1, 2015 to April 15, 2015. The recipient needs to be informed that the second form furnished after April 15 and before May 31 "replaces" the first one and the first should be discarded. This means the corrected box is to be checked. The IRS has done not a good job of explaining what information the IRA custodian is to be send to those IRA accountholder who were already sent a 2014 Form 5498 and who later make a carryback contribution.

4. Missing or incorrect RMD information.

Required distributions is an important and complex topic. Some of the mistakes being made are due to the fact that the IRS needs to furnish better guidance to individuals and the IRA custodians. The IRS should define what is meant by "missing and incorrect information."

The tax laws impose a 50% excise tax when a person fails to withdraw a required distribution. Since 1974 there has never been sufficient support in Congress to lower the 50% to 30%, 20% or some lower percentage.

At the present time, the IRS requires the IRA custodian via Form 5498 to inform the IRS and an accountholder who is age 70½ or older that he or she must take an RMD for the upcoming year. That is, on the 2014 Form 5498 box 11 must be checked if a living accountholder has or is anticipated to reach age 70½ during 2015. Note that the IRS does not require the IRA custodian to inform the IRS of the RMD amount; either on the Form 5498 or on a different form. It is unclear and unsettled under the tax laws if the IRS has the authority to require the IRA custodian to calculate the RMD and furnish this information to the IRS. The IRS believes it has this authority, but it has been unwilling to expressly confront Congress on this issue. The IRS and the Congress spar over various tax issues and RMDs for IRAs is one of those issues.

For tax revenue collection reasons and statistical reasons the IRS wants as much information as possible about required distributions.

What the IRS cannot mandate, the IRS many times will try to obtain indirectly. For this reason, the IRS added box 12a (RMD amount) and box 12b (RMD Deadline) to the Form 5498. The IRS has authorized a IRA custodian to furnish the 2014 Form 5498 to an IRA accountholder by January 31, 2015 and it will satisfy the FMV statement requirement, the Form 5498 requirement and the RMD notice requirement. The information in boxes 12a and 12b should not be sent to the IRS unless the accountholder has expressly consented, but it may well be the software provider provides this information to the IRS and the IRS will then process and analyze this data.

The IRS has adopted what is seemingly an inconsistent approach for RMDs related to inheriting beneficiaries. The IRS has instructed that box 11 is not to be checked if the Form 5498 is being prepared for an inheriting beneficiary. Additionally, the IRS states that an IRA custodian is not required to furnish an RMD notice to an inheriting beneficiary. Consequently more and more beneficiaries fail to take their required distributions. The IRS is starting to have to deal with beneficiaries who are not happy they must pay the 50% tax. The IRS needs to adopt a better approach to inform an IRA beneficiary that he or she is primarily responsible to make sure that the required distribution is withdrawn. Presently, the IRS is not doing this. An express statement needs to be made in Publication 590 that each beneficiary must calculate his or her required distributions and that the IRA custodian is not required to make this calculation or furnish any RMD notice.

Some institutions or some software providers may wish to adopt the approach that since the IRS in the instructions for Forms 1099-R and 5498 do not require an IRA custodian to perform RMD services to a benefi-

Continued on page 6

Limiting Form 5498 Errors,
Continued from page 5

ciary that it is best to not perform these services. This is short-sighted as the IRA plan agreement as written by the IRS requires that RMDs be made to an inheriting beneficiary. The IRA plan agreement requires distributions to a beneficiary. The form states the life distribution rule applies unless the 5 year rule is elected. The IRS last revised their model IRA forms in 2002. It may be the IRS will revise these forms to make it clear that it is solely up to the beneficiary to take RMDs. Until the IRS does so, it is dangerous for any IRA custodian to ignore the IRA plan agreement which presently requires a distribution be made to the beneficiary.

CWF's Guide for the IRS Distribution Codes For Box 7 of the 2015 Form 1099-R

Box 7 is to be completed by the IRA custodian with one descriptive code or with two codes which will help the IRS determine if a person is paying the correct taxes with respect to his or her IRA distributions. The IRS asks the IRA custodian to help in determining if a person owes the 10% or 25% additional tax and for what year any income is taxable, if any.

In some cases only one code is to be used to describe a certain IRA distribution. The solo codes are: 1, 2, 3, 4, 5, 7, 8, G, J, K, N, P, Q, R, S and T.

In other cases it is mandatory to use two code. It is mandatory when there is an applicable numeric code and an alpha code. It is not permitted to enter more than two codes. It is also mandatory in three numeric code combination situations. They are: codes 81, 82 or 84 or 18, 28,or 48.

If two or more distribution codes are not valid combinations, then the IRA custodian must file more than one Form 1099-R. That is, a separate Form 1099-R must be filed for each distinct distribution code.

If two or more other numeric codes are applicable, an IRA custodian must file more than one Form 1099-R.

The various code combinations for IRA distribution are set forth:

1 Early distribution, no known exception or individual to indicate exception on Form 5329

18 Withdrawal of an excess contribution in same year as contributed but also an early distribution no known exception.

1P Withdrawal of an excess contribution in the year following the year contributed but also an early distribution no known exception.

1K Early distribution, no known exception of IRA assets not having a readily available FMV

2 Early distribution, exception applies

28 Withdrawal of an excess contribution in same year as contributed but also an early distribution, exception applies.

2P Withdrawal of an excess contribution in the year following the year contributed but also an early distribution, exception applies.

2K Early distribution, exception applies, but involves an IRA asset not having having a readily available FMV

3 Disability

4 Distribution to a beneficiary regardless of age.

48 Distribution to a beneficiary regardless of age of an excess contribution made by the accountholder one year and withdrawn by the beneficiary the same year.

4P Distribution to a beneficiary regardless of age of an excess contribution made by the accountholder one year and withdrawn by the beneficiary the next year.

4K Distribution to a beneficiary regardless of age of an IRA asset not having a readily available FMV.

4G Distribution to a beneficiary of a 401(k) or similar plan regardless of age which is directly rolled over to an inherited traditional or Roth IRA.

4H Distribution to a beneficiary of a 401(k) or similar plan regardless of age with Designated Roth funds which is directly rolled over to an inherited Roth IRA.

5 Prohibited Transaction

7 Normal Distribution – Age 59½ or older

7K Normal distribution of an IRA asset which does not have a readily available FMV

Continued on page 7

The Pension Digest

Distribution Codes,
Continued from page 6

8 Withdrawal of an excess contribution by a person age 59½ or older the same year the excess contribution was made

81 Withdrawal of an excess contribution in the same year as contributed but also an early distribution no known exception

82 Withdrawal of an excess contribution in same year as contributed but also an early distribution, exception applies.

84 Distribution to a beneficiary regardless of age of an excess contribution made by the accountholder one year and withdrawn by the beneficiary the same year

8J Withdrawal of a Roth IRA excess contribution in the same year as contributed but also an early distribution no known exception

8K Withdrawal of an excess contribution made one year and withdrawn the same year when the distribution involves an IRA asset not having a readily FMV

Code G is primarily used to report a direct rollover from an employer plan to an IRA. However, it is also used to report a direct payment from an IRA to an employer plan

G Used to report a direct payment from a traditional IRA to an accepting employer plan.

G4 Not used for IRAs

GK Used to report a direct payment from a traditional IRA to an accepting employer plan. when the distribution involves an IRA asset not having a readily FMV

Code H is used to report a direct rollover from a Designated Roth account within an employer plan to a Roth IRA.

J Used to report various distributions from a Roth IRA. It is primarily used to report nonqualified distributions. However, it is also used to report a qualified distribution on Account of meeting the first time home buyer rule.

J8 Withdrawal of a Roth IRA excess contribution in the same year as contributed

JP Withdrawal of a Roth IRA excess contribution in the year following year it was contributed

K Distribution of IRA assets not having a readily available FMV

K1 Early distribution, no known exception of IRA assets not having a readily available FMV

K2 Early distribution of IRA assets not having a readily available FMV, but exception known

K4 Distribution to an IRA beneficiary regardless of age of an IRA assets not having a readily available FMV.

K7 Distribution to an IRA accountholder age 59½ or older of IRA assets not having a readily available FMV

K8 Withdrawal of an excess contribution made one year and withdrawn the same year when the distribution involves an IRA asset not having a readily FMV

KG Used to report a direct payment from a traditional IRA to an accepting employer plan. when the distribution involves an IRA asset not having a readily FMV

N Deemed distribution and the recharacterized IRA contribution occur the same year

P Withdrawal of an excess contribution by a person age 59½ or older in the year following the year the excess contribution was made

P1 Withdrawal of an excess contribution in the year following the year the excess contribution was made, but also an early distribution no known exception

P2 Withdrawal of an excess contribution in the year following the year the excess contribution was made, but an exception known

P4 Distributions to a beneficiary regardless of age of an excess contribution made by the accountholder one year and withdrawn the next year

PJ Withdrawal of a Roth IRA excess contribution in the year following year it was contributed

Q Used to report a qualified distribution from a Roth IRA. Know 5-year holding period met and the

Continued on page 8

Distribution Codes,
Continued from page 7

accountholder is age 59½ or older or disable or a payment is made to a beneficiary.

R Used to report a recharacterization of an IRA contribution made for one year and recharacterized in the following year.

S Early distribution from a SIMPLE IRA by an accountholder who has not reached age 59½ in the first two years with no known exception.

T Used to report a non-qualified distribution from a Roth IRA because it is known the 5-year holding period has not been met but the accountholder is age 59½ or older or disable or a payment is made to a beneficiary.

Using "K" Code on Form 1099-R

It is obvious there are many codes for many tax situations. We at CWF have numerous questions with the addition of the "K" code. <u>It is used to report "certain" traditional IRA distributions comprised of an asset the FMV of which is not readily determinable.</u> Code "K" is to be used with 1, 2, 4, 7, 8 and G. It is not used with 3, 5, J, P, N, R, Q, T and S. It is understandable why it is not used with N and R since a recharacterization never results in any additional taxes owing.

We believe the IRS should furnish additional guidance sooner than later. Why?

The IRS instructions as currently written require multiple Form 1099-Rs for the same person in certain situations. The instructions read "If two or more codes are not valid combinations, you must file more than one Form 1099-R" and "if two or more numeric codes are applicable, you must file more than one Form 1099-R.

The Form 1099-R is to be prepared on a per plan agreement basis. For example, Jane has two traditional IRA plan agreements. She is age 63. She takes a distribution from both, she will need to be furnished two Form 1099-Rs with a reason code 7.

Situation #2. Jane withdraws $500 when she is age 59 and another $800 when she is age 59½. She will need to be furnished two Form 1099-Rs, one with a "1" and one with a "7".

Situation #3. Jane at age 55 withdraws $400 from her traditional IRA and $750 from her Roth IRA. There is no known exception. She will need to be furnished two Form 1099-Rs, one with a "1" and one with a " J".

Illustration of Why Additional IRS Guidance is Needed. How many Form 1099-Rs are to be prepared?

What codes are to be reported in the following situation? Jane Roe, age 43, impermissibly rolls over $30,000 on June 10, 2014 from a 401(k) plan. She invests the $30,000 in closely held stock. She believes there is a 90-day roll over rule rather than the 60-day rule. Her accountant informs her of her error in December and so on December 10, 2014 she instructs that the closely held stock be distributed to her in-kind. The value is $32,500 so she has taxable earnings of $2,500.

Code "1" is needed as she is under age 59½. Code "8" is needed as she is withdrawing an excess contribution. And code "K" is needed as the distribution involves an asset with a not readily determinable FMV (i.e a hard to value asset).

Code "1" is needed as she will owe the 10% tax on the $2,500 or $250. Code "8" is need as she will not owe the 10% tax on the $30,000 or any tax on the $30,000. As she is withdrawing her excess by the deadline. Code "K" is needed as the IRA wants to be informed of an in-kind distribution of a hard to value asset since it might have been worth $40,000 rather than $32,500 when distributed.

The IRS instructions do not make clear how this situation should handled. It is clear one cannot insert 3 codes in box 7. Apparently, the IRS has not rewritten its software to have this capability. It appears that two Form 1099-Rs must be prepared. One would think the dollar amount would not be reported on more than one distribution form.

With respect to the use of Code "K", note that it is not to be used with all of the other IRA codes. It is not used with 3, 5, P, J, Q, T or S. The instructions do not provide any explanation. One would think it would certainly apply to Roth IRA distributions. One would also think it would apply to the other codes, 3, 5, P and S.

We have asked the IRS for additional guidance and will keep you updated as to what we are told.