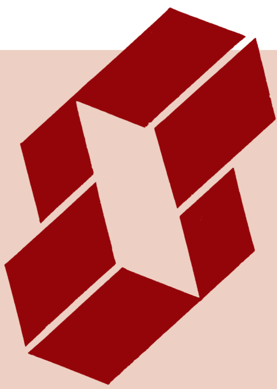

THE Pension Digest

August 2016
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IRS Issues Additional Procedure For Waiver of 60-Day Rollover Requirement and Additional Self-Certification Procedure

The IRS issued Revenue Procedure 2016-47 on August 24, 2016. It modifies Revenue Procedure 2003-16. The IRS now in the course of a examining a taxpayer's individual tax return may determine that the person qualifies for a waiver of the 60-day rollover requirement.

The IRS has created a third waiver method. The new waiver method is effective on August 24, 2016. The first waiver method set forth in Revenue Procedure 2003-16 requires the taxpayer to file an application requesting a waiver of the 60-day rule and the IRS must grant the waiver. The second waiver method authorizes an automatic waiver of the 60-day rule if four requirements are met.

Why this new IRS procedure? In January of 2016 the IRS changed the filing fees that a taxpayer must pay when submitting his or her waiver application. In 2015, the filing fee was $500 if the purported rollover was less than $50,000, $1,500 if the rollover amount was less than $100,000 but equal to or more than $50,000 and $3,000 if the rollover amount was $100,000 or more.

The IRS increased the fee to $10,000 for all such waiver applications. Apparently the IRS concluded that it no longer could afford to assign the personnel it had assigned to process these waiver requests. Presumably, many taxpayers and tax professionals have expressed their dissatisfaction to the IRS. The $10,000 filing fee means many taxpayers are no longer able to have the IRS process their application and receive a concrete ruling that they were or were not entitled to a waiver of the 60-day rule. The application process provided a taxpayer with tax certainty.

In Revenue Procedure 2016-47 the IRS authorizes a self-certification procedure that a taxpayer may use to request the waiver of the 60-day requirement rather than using the application procedure. The IRS tentatively grants the waiver upon the making of the self-certification and the taxpayer is permitted to prepare his or her tax return to reflect that he or she made a complying rollover so the distribution amount is not required to be included in his or her taxable income. However, the IRS retains the right to examine the individual's tax return for such year (i.e. audit) and determine if the requirements for a waiver of the 60-day rule were or were not met. If the IRS determines the individual was not entitled to a waiver of the 60-day rule, the individual will have to include such distribution in his or her income and will have an excess IRA contribution situation needing to be corrected. The IRS explanation gives a limited discussion of the adverse consequences. If the IRS does not grant the waiver then the person may be subject to income and excise taxes, interest and penalties. One of the penal-

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Additional Procedure,
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ties which might apply would be the 25% tax for understating one's income.

This self-certification procedure applies to distributions from any type of IRA and also from a 401(k) plan or other qualified plan and certain 403(b) and 457 plans.

The IRS has stated that it will be modifying the Form 5498 so that an IRA custodian which accepts a rollover contribution pursuant to this self-certification procedure after the 60-day deadline will complete such person's Form 5498 to report that the rollover contribution was accepted after the 60-day deadline. The IRS will then be able to examine the tax returns of these taxpayers and the purported rollovers.

How does this self-certification procedure work?

The IRA owner will furnish the IRA custodian/trustee with a written certification meeting the following requirements. The IRA owner may use the IRS' model letter set forth in the appendix of Revenue Procedure 2016-47 on a word-for-word basis or by using a form or letter that is substantially similar in all material respects. The requirements:

1. The IRS must not have previously denied a waiver with respect to a rollover of all or part of the distribution involved in the late rollover.

2. The IRA owner must make his or her rollover contribution as soon as practicable once the reason(s) for missing the 60-day deadline no longer apply. This requirement is deemed satisfied if the rollover contribution is made within 30 days after the reason or reasons no longer prevent the IRA owner from making the rollover contribution.

3. The taxpayer must have missed the 60-day deadline for one or more of the following reasons:

- An error was committed by the financial institution making the distribution or receiving the contribution.
- The distribution was in the form of a check and the check was misplaced and never cashed.
- The distribution was deposited into and remained in an account that you mistakenly thought was a retirement plan or IRA.
- Your principal residence was severely damaged.
- One of your family members died.
- You or one of your family members were seriously ill.
- You were incarcerated.
- Restrictions were imposed by a foreign country.
- A postal error occurred.
- The distribution was made on account of an IRS levy and the proceeds of the levy have been returned to you.
- The party making the distribution delayed providing information that the receiving plan or IRA required to complete the rollover despite my reasonable efforts to obtain the information.

A person whose reason for missing the 60-day requirement is not included in the list of reasons is unable to use this self-certification procedure.

The IRA custodian is authorized to rely on the IRA owner's self-certification for purposes of accepting the rollover and reporting it unless it has actual knowledge contrary to the self-certification.

The IRS has created this self-certification method because it had to have some alternative procedure to allow taxpayers to seek a waiver of the 60-day rule as discussed in Revenue Procedure 2003-16 as the increased filing fee meant most taxpayers no longer would be using the application process.

This new procedure will help some taxpayers, but it would not have been needed if the IRS would not have imposed the $10,000 filing fee. One can hope the IRS will see reason and will reduce the fees for 2017. Most likely the IRS will not. Although the 11 reasons the IRS lists as warranting the waiver of the 60-day rule are certainly welcomed by taxpayers, there are certainly other reasons for which the IRS should grant relief.

The Pension Digest

Certification for Late Rollover Contribution

To: Custodian/Trustee

Name ____________________ Date: ____________________
Address ____________________ Phone ____________________
City ____________________ State _____ Zip ____________

From: Accountholder

Name ____________________ Phone: Home ____________________
Home Address ____________________ Phone: Work ____________________
City ____________________ State _____ Zip ____________ SSN ____________________
County ____________________ Date of Birth ____________________ Plan No. ____________________

Dear Sir or Madam:

Pursuant to Internal Revenue Service Revenue Procedure 2016-47, I certify that my contribution of $______________ missed the 60-day rollover deadline for the reason(s) listed below under Reasons for Late Contribution. I am making this contribution as soon as practicable after the reason or reasons listed below no longer prevent me from making the contribution. I understand that this certification concerns only the 60-day requirement for a rollover and that, to complete the rollover, I must comply with all other tax law requirements for a valid rollover and with your rollover procedures.

Pursuant to Revenue Procedure 2016-47, unless you have actual knowledge to the contrary, you may rely on this certification to show that I have satisfied the conditions for a waiver of the 60-day rollover requirement for the amount identified above. You may not rely on this certification in determining whether the contribution satisfies other requirements for a valid rollover.

Reasons for Late Contribution

I intended to make the rollover within 60-days after receiving the distribution but was unable to do so for the following reason(s) (check all that apply):

- ❍ An error was committed by the financial institution making the distribution or receiving the contribution.
- ❍ The distribution was in the form of a check and the check was misplaced and never cashed.
- ❍ The distribution was deposited into and remained in an account that I mistakenly thought was a retirement plan or IRA.
- ❍ My principal residence was severely damaged.
- ❍ One of my family members died.
- ❍ I or one of my family members was seriously ill.
- ❍ I was incarcerated.
- ❍ Restrictions were imposed by a foreign country.
- ❍ A postal error occurred.
- ❍ The distribution was made on account of an IRS levy and the proceeds of the levy have been returned to me.
- ❍ The party making the distribution delayed providing information that the receiving plan or IRA required to complete the rollover despite my reasonable efforts to obtain the information.

Signature

I declare that the representations made in this document are true and that the IRS has not previously denied a request for a waiver of the 60-day rollover requirement with respect to a rollover of all or part of the distribution to which this contribution relates. I understand that in the event I am audited and the IRS does not grant a waiver for this contribution, I may be subject to income and excise taxes, interest, and penalties. If the contribution is made to an IRA, I understand you will be required to report the contribution to the IRS. I also understand that I should retain a copy of this signed certification with my tax records.

Signature of Accountholder ______________________________ Date ______________

Signature of Acknowledgment of Custodian/Trustee ______________________________ Date ______________

IRA #65-C (8/16) White — Custodian/ Trustee Yellow — Accountholder © 2016 Collin W. Fritz & Associates, Ltd.

IRA Data – 2013/2014 A Household Perspective

IRAs are a very important segment of the U.S. retirement industry. As the economy improves, the balances in IRAs will continue to grow. The Congressional Research Service has recently issued a study of IRAs from the perspective of U.S. households. It is a sub-study of the Survey of Consumer Finances (SCF) which is designed to be representative of the 122.5 million U.S. households.

The SCF is a survey conducted every three years on behalf of the Federal Reserve's Board of Governors. It contains detailed information on U.S. household finances, including IRA data.

For purposes of this 2013 study, there are three types of IRAs, traditional, Roth and rollover IRAs. The data is aggregated and then divided into categories based on age, aggregated household income levels, marital status, median IRA balance and average IRA balance.

Chart I shows IRA data when all IRA data is aggregated.

Chart II shows IRA data for traditional IRAs.

Chart III shows IRA data for Rollover IRAS.

Chart IV shows IRA data for Roth IRAs.

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IRS Provides Tax Relief to Louisiana Storms Victims

On August 15, 2016 the IRS issued news release IR-2016-105. The IRS issued Tax relief by postponing for certain Louisiana taxpayers the due date for certain returns and paying related taxes until January 17, 2017. The granted tax relief postpones deadlines that occurred starting on August 11, 2016, and ended on January 17, 2017.

The affected taxpayers are those located in East Baton Rouge, Livingston, St. Helena and Tangipahoa parishes. The IRS will also work with any taxpayer who lives outside of the covered disaster area, but whose tax records necessary to meet a tax deadline occurring during the postponement period period are located in the affected area. It is possible the IRS will add other locations to receive this relief.

This relief applies automatically to any taxpayer with an IRS address of record located in the disaster area.

The extended deadline of January 17, 2017 applies to an individual tax filer who with respect to his or her 2015 tax return had received a tax extension until October 17, 2016. SEP-IRA contributions being made made for 2015 may now be made as late as of January 17, 2017.

The extended deadline of January 17, 2017 applies to an individual tax filer who had taken an IRA distribution and intended to roll it over and was still within his or her 60 day period may now complete this rollover by January 17, 2017.

The extended deadline of January 17, 2017 applies to an individual tax filer who fails to take his or her 2016 RMD by December 31, 2016. The individual now has a deadline of January 17, 2017.

The extended deadline of January 17, 2017 applies to estimated tax payments starting with the September 15, 2015, deadline.

The extended deadline of January 17, 2017 also applies to a number of business income tax returns.

IRS Issues Additional Relief for Victims of Louisiana Storms

The IRS issued Announcement 2016-30 and New Release 2016- 115 on August 30, 2016. New relief is provided in addition to the relief provide in News Release 2016-105.

The IRS is authorizing employers to amend certain qualified employer plans to permit the storm victims to access retirement funds to be used to alleviate hardships caused by the Louisiana storms. Such amendments may be made, but an employer is not required to adopt such amendments. Participants may access their plan funds if the plan adopts a loan provision or if the plan is eligible to be amended to permit hardship distributions and is so amended.

The deadline to adopt the amendments is - the end of the first plan year beginning after December 31, 2016. For plans with calendar years, this is December 31, 2017. Employers may allow loans and hardship distributions immediately as long as the employer has decided that the plan will be so amended. It may be that the current plan does not authorize loans or hardship distributions.

To qualify for this relief, a hardship distribution must be made on account of a hardship resulting from the Louisiana Storms and be made on or after August 11, 2016, and no later than January 17, 2017. Plan loans must satisfy the standard loan requirements set forth in Code section 72(p) and the spousal consent rules, if applicable.

Note that the IRS will permit the use of a definition for "hardship" which is much broader than the standard definition. The relief will apply to "any hardship" arising due to the storms. Thus, if funds are needed for food and shelter, the distribution will be a hardship distribution. Normally a participant faces a 6-month ban on 401(k) and 403(b) contributions if a hardship distribution is taken. This ban will not apply.

Although the IRS did not make this clear in the Announcement, in the News Release 2016-115, the IRS states "a person who lives outside the disaster area can take out a retirement plan loan or hardship distribution and use it to assist a son, daughter, parent, grandparent

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The Pension Digest

Important DOL/BICE Compliance Dates

June 7, 2016 - April 10, 2017

The new definition of a fiduciary is effective as of June 7, 2016, the date the DOL issued the final regulation and the Best Interest Contract Exemption (BICE) is effective as of the same date. Financial institutions and IRAs and plans could comply with the new rules immediately if they would choose to do so.

A modified version of the old definition of fiduciary continues to apply between June 7, 2016 and April 10, 2017. This is a transition period. The new fiduciary rules are effective as of 4-10-2017 which is the applicability date. Between June 7, 2016 and April 10, 2017 a person is deemed to be rendering "investment advice" only if the person renders advice as to the value of an investment or makes a recommendation as to the advisability of investing in purchasing, or selling such investments and such person either directly or indirectly has discretionary authority or control regarding such investments or renders any such advice on a regular basis pursuant to a mutual agreement, arrangement or understanding, written or otherwise between such person or a fiduciary that such services will serve as the primary basis for investment decisions and that such person will render individualized investment advice based on the particular needs of the IRA owner.

April 10, 2017 to January 1, 2018

There is a longer transition period with respect to the BICE. In order to gain the tax relief there must be compliance with the BICE rules by January 1, 2018. This is when the contract provisions become effective as do the full disclosure requirements. Between April 10, 2017, through January 1, 2018, a financial institution is granted PT relief for its transactions even though the new contract and disclosure requirements are not being met.

Exemption for Pre-Existing Transactions (Limited Grandfathering)

This exemption permits the continued receipt of compensation for the continuation of a systematic purchase program established before April 10, 2017.

This exemption permits the continued receipt of compensation for a recommendation to hold an investment that was established before April 10, 2017.

The DOL's goal for this exemption is to assure financial institutions and advisers that they may continue to receive the compensation agreed to be paid before April 10, 2017 for continuation of the investment transactions occurring prior to April 10, 2017.

This exemption has the following conditions.

1. The compensation being paid is due to an an agreement or understanding that was created prior to April 10, 2017, and such agreement or understanding has not expired or come up for renewal after April 10, 2017.
2. The prior investment transaction was not otherwise a non-exempt prohibited transaction on the date it occurred.
3. The compensation is not received on account of additional amounts contributed to the previously acquired investments. It is permissible to exchange funds within a mutual fund company or variable annuity contract pursuant to an exchange feature or a rebalancing provision as long as it was established prior to April 10, 2017 and as long as the financial institution and adviser do not receive increased compensation either as a fixed dollar amount or as a percentage of assets than they were entitled to receive prior to April 10, 2017.
4. The amount of compensation paid to the financial institution, adviser or any affiliate on account of the transaction is reasonable.
5. Any investment recommendations made after April 10, 2017, by the financial institution or an adviser must reflect the care, skill, prudence and diligence that prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims, based on the investment objectives, risk tolerance, financial circumstances and need of the IRA owner or the retirement investor and are made with no consideration of the needs or interests of the financial institution or its advisers.

Continued on page 8

IRA Data,
Continued from page 3

Our observations regarding Chart I

1. 28% of all U.S. households have one or more IRAs, That is, 34.3 million households.
   A. The average household IRA balance is $191,702.
   B. The median household IRA balance is $50,000.
   C. When the household contains a married couple, the percentage increases to 34.3% with the average household IRA balance being $527,171.
   D. When the household contains a single person as head of the household the percentage with IRAs decreases to 196.6 with the average household IRA balance being $160,789.
2. There are 6 age categories and the percentage of households with IRAs ranges from 13.8% to 40.9%.
3. There are 5 income level categories. As you would expect households with the lowest household income have an IRA 6.6% of the time whereas households with an income of $125,000 or more have an IRA 64.1% of the time.

   As you would expect households with the lowest household income have an average IRA balance of $79,036 whereas households with an income of $125,000 or more have an average household IRA balance of $690,515.

All Types of IRAs

Ownership in 2013 And IRA Balances	Percentage of Households with IRAs	Median IRA Balance	Average IRA Balance
All Households	28.0%	$50,000	$191,702
Head of Household Age			
Younger than 35	13.8%	$10,000	$23,003
35-44	25.2%	$25,000	$73,173
45-54	28.1%	$46,000	$116,354
55-64	38.1%	$70,000	$224,426
65-74	40.9%	$126,000	$395,853
75 and older	26.4%	$70,000	$228,620
Household Income			
Less than $30,000	6.6%	$23,000	$79,036
$30,000-$49,999	19.2%	$26,500	$77,434
$50,000-$74,999	29.0%	$45,000	$130,533
$75,000-$124,999	40.4%	$50,000	$182,329
$125,000 or more	64.1%	$200,000	$690,515
Household Marital Status			
Married	34.3%	$114,000	$527,171
Single	19.6%	$48,000	$160,789

Our observations regarding Chart II

1. 14.9% of all U.S. households have one or more traditional IRAs which is not a rollover IRA.
   A. The average household IRA balance is $154,234.
   B. The median household IRA balance is $50,000.
   C. When the household contains a married couple, the percentage increases to 19.1% with the average household IRA balance being $321,030.
   D. When the household contains a single person as head of the household the percentage with IRAs decreases to 9.4% with the average household IRA balance being $140,040.
2. There are 6 age categories and the percentage of households with IRAs ranges from 4.1% to 25.6%. Note the decrease from all IRAs.
3. There are 5 income level categories. As you would expect households with the lowest household income have an IRA 3.5% of the time whereas households with an income of $125,000 or more have an IRA 37.8% of the time.

   As you would expect households with the lowest household income have an average IRA balance of $42,327 whereas households with an income of $125,000 or more have an average household IRA. balance of $392,466.

Traditional IRAs

Ownership in 2013 And IRA Balances	Percentage of Households with IRAs	Median IRA Balance	Average IRA Balance
All Households	14.9%	$50,000	$154,234
Head of Household Age			
Younger than 35	4.1%	$10,000	$20,863
35-44	9.3%	$23,000	$58,373
45-54	14.6%	$40,000	$79,157
55-64	22.4%	$60,000	$177,052
65-74	25.6%	$80,000	$290,562
75 and older	19.9%	$56,000	$123,928
Household Income			
Less than $30,000	6.6%	$15,000	$42,327
$30,000-$49,999	19.2%	$35,000	$72,689
$50,000-$74,999	29.0%	$50,000	$114,994
$75,000-$124,999	40.4%	$56,000	$164,530
$125,000 or more	64.1%	$122,000	$392,466
Household Marital Status			
Married	19.1%	$90,000	$321,030
Single	9.4%	$40,000	$140,040

IRA Data,
Continued from page 6

Our observations regarding Chart III

1. 10.2% of all U.S. households have one or more traditional IRAs which is a rollover IRA.
   A. The average household IRA rollover balance is $230,602.
   B. The median household IRA rollover balance is $75,000.
   C. When the household contains a married couple, the percentage increases to 13.0% with the average household IRA balance being $499,037.
   D. When the household contains a single person as head of the household the percentage with rollover IRAs decreases to 6.4% with the average household IRA balance being $211,516.
2. There are 6 age categories and the percentage of households with IRAs ranges from 4.1% to 17.0% Note the decrease from all IRAs.
3. There are 5 income level categories. As you would expect households with the lowest household income have a rollover IRA 2.0% of the time whereas households with an income of $125,000 or more have a rollover IRA 25.0% of the time.

   As you would expect households with the lowest household income have an average rollover IRA balance of $129,538 whereas households with an income of $125,000 or more have an average household IRA balance of $650,003.

Rollover IRAs

Ownership in 2013 And IRA Balances	Percentage of Households with IRAs	Median IRA Balance	Average IRA Balance
All Households	10.2%	$75,000	$230,602
Head of Household Age			
Younger than 35	4.1%	$9,800	$30,122
35-44	8.5%	$3,500	$85,357
45-54	11.8%	$3,800	$112,026
55-64	14.0%	$100,000	$256,386
65-74	17.0%	$157,000	$424,939
75 and older	6.8%	$150,000	$456,075
Household Income			
Less than $30,000	2.0%	$46,000	$42,327
$30,000-$49,999	5.8%	$48,000	$72,689
$50,000-$74,999	11.2%	$51,500	$114,994
$75,000-$124,999	14.6%	$65,000	$164,530
$125,000 or more	25.0%	$252,000	$392,466
Household Marital Status			
Married	13.0%	$134,000	$321,030
Single	6.4%	$78,000	$140,040

Our observations regarding Chart IV

1. 10.5% of all U.S. households have one or more Roth IRAs which is not a rollover IRA.
   A. The average household Roth IRA balance is $67,966.
   B. The median household IRA is $20,000.
   C. When the household contains a married couple, the percentage increases to13.3% with the average household Roth IRa balance being $402,927.
   D. When the household contains a single person as head of the household the percentage with IRAs decreases to 6.8% with the average household IRA balance being $66,231.
2. There are 6 age categories and the percentage of households with Roth IRAs ranges from 8.3% to13.7%. Note the decrease from all IRAs.
3. There are 5 income level categories. As you would/expect households with the lowest household income have a Roth IRA 1.7% of the time whereas households with an income of $125,000 or more have a Roth IRA 25.7% of the time.

   As you would expect households with the lowest household income have an average, Roth IRA balance of $57,931 whereas households with an income of $125,000 or more have an average household Roth IRA balance of $578,798.

Roth IRAs

Ownership in 2013 And IRA Balances	Percentage of Households with IRAs	Median IRA Balance	Average IRA Balance
All Households	10.5%	$20,000	$67,966
Head of Household Age			
Younger than 35	8.3%	$6,000	$13,052
35-44	12.4%	$16,000	$46,873
45-54	12.1%	$21,000	$65,698
55-64	13.7%	$3,000	$73,944
65-74	10.7%	$50,000	$142,168
75 and older	3.0%	$50,000	$156,134

Continued on page 8

IRA Data,
Continued from page 7

Household Income			
Less than $30,000	1.7%	$8,200	$57,931
$30,000-$49,999	6.7%	$10,000	$34,889
$50,000-$74,999	9.8%	$19,500	$43,382
$75,000-$124,999	16.9%	$21,000	$49,417
$125,000 or more	25.7%	$55,000	$578,798
Household Marital Status			
Married	13.3%	$35,000	$402,927
Single	6.8%	$20,000	$66,231

Additional Observations

1. A larger percentage of households had a traditional IRA (14.9%) versus those who have a Roth IRA (10.5%) or a rollover IRA (10.2%).
2. Only 13.8% of households where the household head is less than age 35 have any type of IRA. The percentage is 4.1% for traditional IRAs, 4.1% for rollover IRAs and 8.3% for Roth IRAs.
3. Only 10.5% of all households have a Roth IRA. One would expect this to increase significantly once the general public understands the special tax benefits which Roth IRAs have. Those households with income of $125,000 or more understand the benefits as 25.7% of such households have a Roth IRA.
4. Those households with income of $125,000 or more understand the valuable tax benefits associated with all three types of IRAs. 64.1 % of such group have at least one of the IRA types. 37.8% of such group have a traditional IRA. 25.7% of such group have a Roth IRA. 25.0% of such group have a rollover IRA.
5. Those households with income in the range of $75,000 to $124,999 also understand the valuable tax benefits associated with all three types of IRAs. 40.4% of such group have at least one of the IRA types. 20.5% of such group have a traditional IRA. 16.9% of such group have a Roth IRA. 14.6% of such group have a rollover IRA.
6. Roth IRA balances are currently much smaller than those traditional IRAS and Rollovers. This is to be expected as the first year for Roth IRA contributions was 1998. It was not until 2010 that all traditional IRA owners could convert traditional IRA funds into a Roth IRA. Many traditional IRA owners have not yet decided the time is right to make conversion contributions which requires the individual to generally include the distribution in his or her income and pay tax.
7. Married households (34.3%) have a much higher percentage of all types of IRAs than IRAs of single households (19.6%). To a certain degree this is to be expected as there will be multiple IRAs.
8. Married households have a much higher average account balance of $527,171 versus $160,789 for single household. To a certain degree this is to expected as there will multiple IRAs.

Louisiana Storms,
Continued from page 4

or other dependent who lived or worked in the disaster area." The IRS does not make as clear as it should, that this can be done only if the person is a participant of a plan which has been so amended or will be amended.

The Department of Labor has advised Treasury and the IRS that it will not pursue against any employer or individual any violations of Title I of ERISA even though prohibited transaction may occur.

The IRS also reminds taxpayers that a plan loan is not taxable as long as repaid over a five year time period or less and that a hardship distribution is taxable and the 10% pre-59½ tax will apply when applicable.

Note that the IRS for whatever reason chooses to not inform employers who have standard profit sharing plans and the employees of such employers that such plans could be amended to authorize an outright taxable distribution to a person in the storm area as long as such funds have been in the plan for 2 years.

Exemption,
Continued from page 5

The purpose of this exemption is not to exempt future advice and exempt future investments from the important prohibited transaction rules and the BICE. The use of BICE is only necessary if investment advice is made after April 10, 2017 with respect to the pre-existing investments.