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“The Pension Specialists”



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IRA Tip – Assist With the Review and Updating of IRA Beneficiary Designations

It happens for various reasons, an IRA owner dies and his or her estate is the IRA beneficiary. The general IRA rule is, this situation should be avoided if at all possible unless the IRA owner has knowingly made the decision that he or she wants their estate to be the IRA beneficiary.

The purpose of this article is to suggest that IRA custodians/trustees should periodically review your IRA files and give your IRA owners the chance to update or change their IRA beneficiary designations. We are being told in consulting calls, our IRA owner recently died and the estate is the beneficiary because there was no one else designated as a primary beneficiary or a contingent beneficiary who was alive at the time the IRA owner died. Individuals who had been designated as a beneficiary had predeceased the IRA owner and no succeeding beneficiaries had been designated.

The general tax and administrative rule for traditional/SEP/SIMPLE IRAs is, it is preferred if an IRA owner designates a living person as a beneficiary rather than her or his estate. By designating a child or grandchild as a beneficiary the IRA owner will allow the designated beneficiary substantial flexibility in how and when the beneficiary would

withdraw the inherited IRA funds and when federal income taxes would be paid. This is certainly true for a Roth IRA because the tax rules require a Roth IRA

must be closed under the 5-year rule if the beneficiary is the estate versus earning tax free income for the life expectancy of the beneficiary if a living person has been designated as the Roth IRA beneficiary.

There will be times when a person designates a person as their contingent beneficiary and also a primary beneficiary. Then the contingent beneficiary dies and the IRA owner does not designate any succeeding contingent beneficiary and then the primary beneficiary dies.

In prior years, some individuals when establishing their IRA adopted the approach of naming their spouse as 100% the primary beneficiary and their estate as their contingent beneficiary. They thought this would ease the administration of their estate.

If your institution has not had its IRA owners review beneficiaries for a number of years, now would be a good time to do so. Your IRA owners should, of course, act after considering the advice of their advisers, be it an attorney, accountant or knowledgeable family member.

Revisiting the 5-Year Rule for Reporting Roth IRA Distributions to a Beneficiary

Some Roth IRA beneficiaries are transferring their inherited Roth IRAs from one custodian/trustee to a successor custodian/trustee. For whatever reason the beneficiary wants to move their inherited Roth IRA. These Roth IRA beneficiaries are often not very understanding when the new Roth IRA custodian sends them a Form 1099-R with a reason code T (non-qualified) in box 7 when the prior custodian's Form 1099-R had had a reason code Q. The Q means the distribution is not taxable, it is tax-free.

Often these Roth IRA beneficiaries (or their advisers) either believe a mistake is being made by the new Roth IRA trustee or they understand that a mistake is not being made but they don't care, they want and lobby the Roth IRA custodian to use the reason code Q even though its use is incorrect.

Roth IRA trustees are in a difficult position. The IRS has adopted the administrative rule that for Form 1099-R reporting purposes, a Q is to be used only if the Roth IRA has been at that institution for 5 years. That requirement obviously has not been met if the Roth IRA funds are transferred in for the first time.

It is understandable why a client wants the bank to see a "Q" on his or her Form 1099-R. It simplifies the preparation of their tax return.

On page 3 we have reprinted an article we wrote in April of 2018 on this topic. The following discussion is a comprehensive explanation that the IRS requires a Roth IRA custodian to report a distribution as nonqualified when the 5-year rule has not been met at the Roth IRA custodian. This is the requirement even if the Roth IRA owner had met the 5-year rule or the beneficiary had met the 5-year rule at another Roth IRA custodian.

The fact that a Roth IRA trustee prepares a person's Form 1099-R with a non-qualified code does not mean the person must pay tax with respect to the distribution. It might mean the individual will be required to explain on the tax return that the distribution was actually qualified because he/she had opened the Roth IRA earlier with another Roth IRA trustee and so the 5-year

requirement has been met. The IRS is well aware that a person's distribution from a Roth IRA is qualified if the 5-year rule has been met and the distribution is on account of the person being age 59½ or older or disabled or the distribution is made to a beneficiary.

The flow chart you sent me is from Publication 590-B. It is directed to the Roth IRA owner and not to Roth IRA trustee. Of course it says, the distribution is qualified if the person has met the 5-year requirement and is age 59½ or older.

The IRS develops thousands of procedures so it can administer our federal income tax laws.

There are procedures for taxpayers and there are procedures for Roth IRA trustees. The procedures of course will be different.

What procedures has the IRS adopted with respect to its determining if a taxpayer has met the 5-year rule for purposes of a Roth IRA distribution being qualified?

The IRS approach is – it is primarily the duty of the individual to claim/prove that he or she has met the 5-year rule.

Has the IRS adopted a procedure where it requires or allows the Roth IRA trustee to make the determination that the 5-year rule has been met based on information it has acquired from the individual or another Roth IRA trustee? T

There is no such procedure. Maybe there should be, but the IRS does not think so or the IRS would change its long-standing procedure. A financial institution only truly knows that a person has met the 5-year rule if the IRA has been with the bank for the 5-year period. Otherwise the only way it knows is to use other information. Some of this information could be fake.

I have never seen where the IRS has issued written guidance requiring or allowing the Roth IRA trustee for purposes of preparing the Form 1099-R to use other information to determine if the 5-year period requirement has been met.

I realize why a financial institution wants or is willing to make this determination; your clients want you to. And they find it hard to understand why you won't do it, because others are doing it, albeit incorrectly.

One does wonder – wouldn't the IRS and taxpayers

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5-Year Rule
Continued from page 2

be better off if the IRS would adopt a procedure allowing banks to make the 5-year determination as long as certain information was obtained? I think the IRS should do so, but I don't expect the IRS will make this change.

What is the chance a bank will be fined (\$270 x2 per client) for preparing the Form 1099-R incorrectly by using Code Q when the 5-year rule has not been met at its bank? I think small, but why take the risk when the IRS has not authorized (or encouraged) such action?

IRS Reconfirms the Proper Reporting By a Roth IRA Custodian of a Roth IRA Distribution – Determining If the 5-Year Rule Has Been Met

Roth IRA owners and the tax accountants of such Roth IRA owners want to be furnished a Form 1099-R with the reason code "Q" in box 7. The Q is used to report a distribution which the Roth IRA custodian knows to be a qualified distribution (i.e. a tax-free distribution). The individual is not required to include this distribution in their income.

The withdrawal of income from a Roth IRA is a qualified distribution (and tax-free) if the individual has met the 5-year rule and the distribution is on account of being age 59½ or older, being disabled, or if it qualifies as a first time home purchase or if it is made to a beneficiary.

What procedures are to be used by the Roth IRA custodian to determine if the individual has met the 5-year rule? Is the Roth IRA custodian only to consider for purposes of preparing the Form 1099-R the time the Roth IRA has been at its institution or may the Roth IRA custodian consider when the individual previously opened his or her Roth IRA with another Roth IRA custodian.

Many large Roth IRA custodians/trustees (e.g. Fidelity) wrongly believe they are permitted to report a Q even though the 5-year has not been met at their institution.

Many Roth IRA computer systems and many Roth IRA plan agreement forms will ask for the date when the individual first established his or her Roth IRA or the January 1st of the first year for which a Roth IRA contribution was made.

The IRS for a long time has had the reporting procedure - the Roth IRA custodian is not to insert a code "Q" in box 7 if the individual has not met the 5-year rule at its institution. For example, Jane Doe opened her Roth IRA with IRA custodian #4 in 2014 by transferring in her Roth IRA from Roth IRA custodian #3. She originally had opened her Roth IRA in 2004 with Roth IRA custodian #1. Jane Doe is now age 64. If she withdraws funds from her Roth IRA with Roth IRA custodian #4 in 2018, such custodian is to insert reason code (T) into box 7. Reason code (T) means, the Roth IRA custodian knows the distribution is a non-qualified distribution with an exception known. That is, the 10% tax is not owed if the distribution would be required to be included in income.

Jane Doe and/or her accountant are given the task of explaining on her tax return that her Roth IRA distribution is qualified (notwithstanding that the 1099-R has been prepared with a reason code T) because she has met the 5-year rule because she had made her first Roth IRA in 2004 (more than 5 years ago) with financial institution AAAA.

We recently called the IRS Martinsburg location and the IRS representative confirmed that the IRS has not changed its procedure on this issue.

The real world difficulty is, because some ROTH IRA custodians have been preparing their 1099-R forms incorrectly, that your customer may well believe it is your institution which is doing it incorrectly.

Remember, the IRS may assess two fines of \$260 if the Form 1099-R is prepared with errors. The IRS should acknowledge their instructions on this subject need to be improved. This applies to the instructions for their print versions and for their e-versions. The IRS should revise its instructions to make very clear that for determining if code Q is to be used the Roth IRA custodian only considers the time the Roth IRA has been at its institution.

Completing Boxes 13 and 14 on the 2018 and 2019 Versions of Form 5498

Our federal tax laws are complicated and the reporting of certain special IRA contributions are complicated. There is a limit as to the number of boxes which are present on the Form 5498 (IRA Contributions) to be used to inform the IRS and the taxpayer that a taxpayer has made various types of IRA contributions. There are standard contributions and then there are special contributions such as postponed contributions, late rollover contributions and repayment contributions.

Boxes 13 and 14 are to be completed to report special contributions such as postponed contributions, late rollovers and repayments of disaster distributions.

2018		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	
		\$		2018	
		2 Rollover contributions		Form 5498	
		\$			
TRUSTEE'S or ISSUER'S TIN		3 Roth IRA conversion amount		4 Recaptured contributions	
		\$		\$	
PARTICIPANT'S TIN		5 FMV of account		6 Life insurance cost included in box 1	
		\$		\$	
PARTICIPANT'S name		7 IRA SIMPLE SEP ROTH IRA		Copy A	
		8 SEP contributions		9 SIMPLE contributions	
		\$		\$	
Street address (including apt. no.)		10 Roth IRA contributions		11 Check if RMD for 2019	
		\$			
City or town, state or province, country, and ZIP or foreign postal code		12a RMD date		12b RMD amount	
		\$		\$	
		13a Postponed/late contrib.		13b Year 13c Code	
		\$		\$	
		14a Repayments		14b Code	
		\$		\$	
Account number (see instructions)		15a FMV of certain specified assets		15b Code(s)	
		\$		\$	

Form 5498 Cat. No. 50012C www.irs.gov/Form5498 Department of the Treasury - Internal Revenue Service

The IRS has furnished the following instructions for completing the 3 boxes that make up Box 13. Box 13 reports postponed contributions and certain special rollovers.

Box 13a. This is titled Postponed Contribution in the 2018 instructions and Postponed/late Contribution in the 2019 instructions. The IRS should change the 2019 title to somehow make clear it is a late rollover contribution.

Some IRA owners are entitled to make an IRA contribution for a prior year in addition to make a current year contribution. Report the amount of the postponed contribution.

If the IRA owner makes a prior year contribution for more than one year, each year's prior year postponed contribution must be reported on a separate Form 5498.

Some IRA owners will make late rollover contributions pursuant to the IRS procedures set forth in Rev. Proc. 2016-47. Report the amount of the late rollover contribution.

If an IRA owner makes both a postponed contribution and a late rollover contribution, there must be two separate 5498 forms prepared.

Because of the once per year rollover rule, there cannot be two late rollover contributions in the same year. However, a person could have made a rollover of a qualified plan loan off-set amount. A separate Form 5498 would need to be prepared.

For 2019 there are two important changes with respect to reporting certain rollovers. Reports rollovers made with respect to qualified plan loan off-sets and for affected taxpayers in a federally declared disaster area. Note that there is no discussion for the reporting of a person's rollover after the IRS has returned levied funds. Most likely the IRS will provide such guidance later.

Box 13b. Year

Enter the year for which the postponed contribution was made.

Leave blank if a late rollover contribution or a rollover of a qualified plan loan off-set amount.

The 2018 and 2019 IRS instructions for this box are identical. The IRS does not provide guidance for reporting the rollover of IRA funds levied by the IRS but returned to the taxpayer.

Box 13c. Code

Enter the applicable reason code for a postponed contribution.

For service in a combat zone enter the appropriate code as set forth at end of this guidance.

Enter FD for affected taxpayers of a federally declared disaster.

Enter PO for taxpayers who made a rollover of a qualified plan loan off-set amount.

Enter SC for taxpayers who made a late rollover certification.

The IRS has furnished the following instructions for completing the 2 boxes that make up

Box 14. Box 14 reports repayment contributions.

A person can make two types of repayments, a repayment of a qualified reservist distribution or of a designated disaster distribution.

Box 14a. Repayments.

Enter the amount of the repayments.

Box 14b. Code.

Enter QR for the repayment of a qualified reservist distribution.

Enter DD for the repayment of a federally designated disaster distribution.

The instructions don't expressly state that separate forms are to be prepared if a person would have both transactions, but it is implied by having separate codes.

See below for the special codes applying to certain individuals serving in combat zones, hazardous duty zones or who have served in an active support area.

a. Use "EO13239" for Afghanistan and those countries in direct support, including Djibouti, Jordan, Kyrgyzstan, Pakistan, Somalia, Syria, Tajikistan, Uzbekistan, Yemen, and the Philippines. For the Philippines only, personnel must be deployed in conjunction with Operation Enduring Freedom supporting military operations in the Afghanistan combat zone.

b. Use "EO12744" for the Arabian Peninsula, including air space and adjacent waters (the Persian Gulf, the Red Sea, the Gulf of Oman, the Gulf of Aden, the portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude, and the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates), and Jordan which is in direct support of the Arabian Peninsula.

c. Use "EO13119" or Public Law 106-21 "PL106-21" for the Federal Republic of Yugoslavia (Serbia and Montenegro), Albania, Kosovo, the Adriatic Sea, and the Ionian Sea north of the 39th parallel. (**Note.** The combat zone designation for Montenegro and Kosovo (previously a province within Serbia) under Executive Order 13119 remains in force even though Montenegro and Kosovo became independent nations since EO13119 was signed.)

d. Use Public Law 115-97 "PL115-97" for the Sinai Peninsula of Egypt.



For additions to, or subtractions from, the list of combat zones or qualified hazardous duty areas implemented by executive orders and public laws, and direct support areas designated by the Secretary of Defense, after the publication date of these instructions, go to [IRS.gov/Form5498](https://www.irs.gov/Form5498).

Email Guidance – Why Furnish a Withholding Reminder Notice?

Q-1 We have been sending out form 59-B Withholding Elections for Automatic IRA distributions. We have been sending them out twice a year (lately in March and Sept). Is it still necessary to send this out twice a year? If so does it have to be six months apart?

A-1 To whom are you sending your two withholding reminder notices?

Are both notices going to the same customers?

We suggest not furnishing the same notice to the same people. But sometimes you may have to.

The purpose of the IRS' withholding notice rule is, each year a person should have the right to change their withholding instruction for the upcoming distributions.

In January you should furnish the notice to those IRA owners receiving more than 4 distributions per year or who receive 1-2 distributions and one of those distributions is between January 1 and June 30th.

The IRS has adopted a complicating procedure.

Only one notice needs to be sent to someone receiving periodic distributions 4 or more time per year.

However, if a person is to receive less than 4 distributions per year, than the IRS requires two notices because the when there are fewer than 4 distributions the IRS requires that the notice cannot be furnished more than 6 months in advance of any distribution. This why you are furnishing at least 2 notices.

So, if you have IRA owners only receiving one distribution in October or November, I see little purpose to sending these IRA owners the withholding notice in January or February as you must comply with the 6 month rule and you must comply with the requirement that the person must have a reasonable time to notify you (30 days) that they are changing their prior instruction.

One would think if the federal government is trying to reduce unnecessary rules, the IRS could change its rule and get rid of the 6 month rule and allow the notice to be furnished in January. We will be suggesting it to the IRS one more time, but it would require the IRS to amend its regulation and there is work to be done which the IRS may not want to do.

Understanding the Requirement to File When an Excess IRA or HSA Contribution has been made

The 2018 Form 5329 is set forth. The title of this form is, "Additional Taxes on Qualified Plans (including IRAs) and Other Tax-Favored Accounts."

Form 5329 is a two page form. The individual taxpayer has the duty to prepare this form. An IRA or HSA custodian does not prepare this form.

The title of Form 5329 gives the impression that it is to be filed if there are additional taxes owing. **The fact is, most often it must be filed even when a person does not owe an additional tax such as when a person makes an excess IRA or HSA contribution, but corrects it within the appropriate time deadline.**

As with other IRS forms, the instructions for Form 5329 are not written as clearly as they should be. The IRS requires the individual to report that he or she has made an excess contribution by completing Form 5329. However, in a number of places, the IRS discusses the tax rule -

if a person withdraws some or all of his/her excess contribution for 2018 by the due date of the tax return, as adjusted for earnings or losses and a deduction was not claimed, then the contribution is treated as not

having been made. The discussion of the tax rule does not mean the individual does not need to complete Form 5329 to inform the IRS that he or she made an excess contribution.

Note that there are nine sections to this form. Four sections apply to IRAs, three sections apply to Coverdell ESA and ABLE accounts and two apply to HSAs. In general, there is a 10% tax for certain early

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. ▶ Go to www.irs.gov/Form5329 for instructions and the latest information.		OMB No. 1545-0074 2018 Attachment Sequence No. 29
Name of individual subject to additional tax. If married filing jointly, see instructions.			Your social security number	
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 <input type="checkbox"/>	
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 Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57, without filing Form 5329. See the instructions for Schedule 4 (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 (other than a qualified 2017 disaster distribution) before you reached age 59½ from a qualified retirement plan (including an IRA) or modified endowment contract (unless you are reporting this tax directly on Form 1040 or Form 1040NR—see above). You may also have to complete this part to indicate that you qualify for an exception to the additional tax on early distributions or for certain Roth IRA distributions. See instructions.				
1	Early distributions included in income. For Roth IRA distributions, see instructions	1		
2	Early distributions included on line 1 that are not subject to the additional tax (see instructions). Enter the appropriate exception number from the instructions:	2		
3	Amount subject to additional tax. Subtract line 2 from line 1	3		
4	Additional tax. Enter 10% (0.10) of line 3. Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57. Caution: If any part of the amount on line 3 was a distribution from a SIMPLE IRA, you may have to include 25% of that amount on line 4 instead of 10%. See instructions.	4		
Part II Additional Tax on Certain Distributions From Education Accounts and ABLE Accounts. Complete this part if you included an amount in income, on Schedule 1 (Form 1040), line 21, or Form 1040NR, line 21, from a Coverdell education savings account (ESA), a qualified tuition program (QTP), or an ABLE account.				
5	Distributions included in income from a Coverdell ESA, a QTP, or an ABLE account	5		
6	Distributions included on line 5 that are not subject to the additional tax (see instructions)	6		
7	Amount subject to additional tax. Subtract line 6 from line 5	7		
8	Additional tax. Enter 10% (0.10) of line 7. Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	8		
Part III Additional Tax on Excess Contributions to Traditional IRAs. Complete this part if you contributed more to your traditional IRAs for 2018 than is allowable or you had an amount on line 17 of your 2017 Form 5329.				
9	Enter your excess contributions from line 16 of your 2017 Form 5329. See instructions. If zero, go to line 15	9		
10	If your traditional IRA contributions for 2018 are less than your maximum allowable contribution, see instructions. Otherwise, enter -0-	10		
11	2018 traditional IRA distributions included in income (see instructions)	11		
12	2018 distributions of prior year excess contributions (see instructions)	12		
13	Add lines 10, 11, and 12	13		
14	Prior year excess contributions. Subtract line 13 from line 9. If zero or less, enter -0-	14		
15	Excess contributions for 2018 (see instructions)	15		
16	Total excess contributions. Add lines 14 and 15	16		
17	Additional tax. Enter 6% (0.06) of the smaller of line 16 or the value of your traditional IRAs on December 31, 2018 (including 2018 contributions made in 2019). Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	17		
Part IV Additional Tax on Excess Contributions to Roth IRAs. Complete this part if you contributed more to your Roth IRAs for 2018 than is allowable or you had an amount on line 25 of your 2017 Form 5329.				
18	Enter your excess contributions from line 24 of your 2017 Form 5329. See instructions. If zero, go to line 23	18		
19	If your Roth IRA contributions for 2018 are less than your maximum allowable contribution, see instructions. Otherwise, enter -0-	19		
20	2018 distributions from your Roth IRAs (see instructions)	20		
21	Add lines 19 and 20	21		
22	Prior year excess contributions. Subtract line 21 from line 18. If zero or less, enter -0-	22		
23	Excess contributions for 2018 (see instructions)	23		
24	Total excess contributions. Add lines 22 and 23	24		
25	Additional tax. Enter 6% (0.06) of the smaller of line 24 or the value of your Roth IRAs on December 31, 2018 (including 2018 contributions made in 2019). Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	25		

For Privacy Act and Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 13329Q

Form 5329 (2018)

Excess Contribution,
Continued from page 6

distributions, a 50% tax for failing to take a required distribution from an IRA and a 6% excise tax for an excess contribution. The 6% tax and the 50% tax apply on an annual basis. If a person makes an excess contribution in 2017 and it is not corrected in 2017 or 2018, then the 6% tax is owed for both 2017 and 2018. Similarly, if a person fails to take his 2017 RMD in either 2017 or 2018, then the 50% tax is owed for both years.

Individuals will make excess IRA contributions and excess HSA contributions. An excess contribution is one not permitted by the IRA rules or the HSA rules. An annual contribution may be an excess contribution. A nonqualifying rollover contribution is an excess contribution. An impermissible transfer contribution may be an excess contribution.

The purpose of this article is to discuss the reporting duties of the individual and the IRA/HSA custodian when an excess IRA or HSA contribution has been made. It is true that a person who corrects his or her excess contribution by withdrawing it as adjusted for earnings or losses will have minimal adverse tax consequences. However, IRS procedures require

that the individual complete the applicable section of Form 5329 to indicate that he or she made an excess contribution and it was either corrected with no tax penalty owing or it was not correct and the tax penalty is owed.

The individual is not allowed to adopt the approach, "I corrected the excess contribution by withdrawing it so I am able to skip preparing and filing the Form 5329." The rules require an individual who has made an excess

IRA or HSA contribution (or the employer made it) to complete the applicable section of Form 5329.

In preparing the Form 5498 or Form 5498-SA, the IRA custodian or HSA custodian must report ALL

Continued on page 8

Form 5329 (2018) Page **2**

Part V Additional Tax on Excess Contributions to Coverdell ESAs. Complete this part if the contributions to your Coverdell ESAs for 2018 were more than is allowable or you had an amount on line 33 of your 2017 Form 5329.

26	Enter the excess contributions from line 32 of your 2017 Form 5329. See instructions. If zero, go to line 31	26	
27	If the contributions to your Coverdell ESAs for 2018 were less than the maximum allowable contribution, see instructions. Otherwise, enter -0-	27	
28	2018 distributions from your Coverdell ESAs (see instructions)	28	
29	Add lines 27 and 28	29	
30	Prior year excess contributions. Subtract line 29 from line 26. If zero or less, enter -0-	30	
31	Excess contributions for 2018 (see instructions)	31	
32	Total excess contributions. Add lines 30 and 31	32	
33	Additional tax. Enter 6% (0.06) of the smaller of line 32 or the value of your Coverdell ESAs on December 31, 2018 (including 2018 contributions made in 2019). Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	33	

Part VI Additional Tax on Excess Contributions to Archer MSAs. Complete this part if you or your employer contributed more to your Archer MSAs for 2018 than is allowable or you had an amount on line 41 of your 2017 Form 5329.

34	Enter the excess contributions from line 40 of your 2017 Form 5329. See instructions. If zero, go to line 39	34	
35	If the contributions to your Archer MSAs for 2018 are less than the maximum allowable contribution, see instructions. Otherwise, enter -0-	35	
36	2018 distributions from your Archer MSAs from Form 8853, line 8	36	
37	Add lines 35 and 36	37	
38	Prior year excess contributions. Subtract line 37 from line 34. If zero or less, enter -0-	38	
39	Excess contributions for 2018 (see instructions)	39	
40	Total excess contributions. Add lines 38 and 39	40	
41	Additional tax. Enter 6% (0.06) of the smaller of line 40 or the value of your Archer MSAs on December 31, 2018 (including 2018 contributions made in 2019). Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	41	

Part VII Additional Tax on Excess Contributions to Health Savings Accounts (HSAs). Complete this part if you, someone on your behalf, or your employer contributed more to your HSAs for 2018 than is allowable or you had an amount on line 49 of your 2017 Form 5329.

42	Enter the excess contributions from line 48 of your 2017 Form 5329. If zero, go to line 47	42	
43	If the contributions to your HSAs for 2018 are less than the maximum allowable contribution, see instructions. Otherwise, enter -0-	43	
44	2018 distributions from your HSAs from Form 8889, line 16	44	
45	Add lines 43 and 44	45	
46	Prior year excess contributions. Subtract line 45 from line 42. If zero or less, enter -0-	46	
47	Excess contributions for 2018 (see instructions)	47	
48	Total excess contributions. Add lines 46 and 47	48	
49	Additional tax. Enter 6% (0.06) of the smaller of line 48 or the value of your HSAs on December 31, 2018 (including 2018 contributions made in 2019). Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	49	

Part VIII Additional Tax on Excess Contributions to an ABLE Account. Complete this part if contributions to your ABLE account for 2018 were more than is allowable.

50	Excess contributions for 2018 (see instructions)	50	
51	Additional tax. Enter 6% (0.06) of the smaller of line 50 or the value of your ABLE account on December 31, 2018. Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	51	

Part IX 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.

52	Minimum required distribution for 2018 (see instructions)	52	
53	Amount actually distributed to you in 2018	53	
54	Subtract line 53 from line 52. If zero or less, enter -0-	54	
55	Additional tax. Enter 50% (0.50) of line 54. Include this amount on Schedule 4 (Form 1040), line 59, or Form 1040NR, line 57	55	

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 <input type="checkbox"/> if self-employed	PTIN
	Firm's name	Firm's EIN			
	Firm's address	Phone no.			

Form **5329** (2018)

**Excess Contribution,
Continued from page 7**

contributions made by (or on behalf of) the individual. There is no netting of contributions. Note that the IRS has no procedure for the IRA/HSA custodian to indicate on the Form 5498 or Form 5498-SA that the individual has made an excess contribution. This approach is consistent with the IRS' administrative approach that the general duty to determine if an excess contribution has been made belongs to the IRA accountholder or HSA owner and is not the duty of the IRA/HSA custodian.

Who must file the 2018 Form 5329?

1. Any person who made an excess 2018 IRA, HSA, Archer MSA, Coverdell ESA, or ABLE contribution.
2. Any person who had made an excess 2017 IRA contribution, HSA contribution, Archer MSA, Coverdell ESA, or ABLE accounts and also owed the penalty tax for 2017.
3. Any person who failed to take/receive his or her 2018 RMD.
4. Any person who received a taxable distribution from a Coverdell ESA, QTPs or ABLE accounts.
5. Various early (pre-age 59½) distribution situations. These are not discussed this article which focuses on excess contributions.

Note that Part VII of Form 5329- Additional Tax on Excess Contributions to HSAs is to be completed if a person (or the person's employer) made an excess HSA contribution for 2018 or the person owed the 6% excise excess contribution tax for 2017.

The individual must also report his or her withdrawal of the excess contribution on Form 8889 (HSAs). In Part II on line 14a the total amount of HSA distributions is shown. A distribution used to pay a qualified medical expense is tax-free. A distribution not used to pay a qualified medical expense must be included in income (and taxes paid) and a 20% penalty tax is owed if the individual is not age 65 or disabled. The withdrawal of an excess contribution does not belong to either such category.

So, line 14b is completed to show the withdrawal of all 2018 excess contributions plus earnings. The remaining amount is then either "qualified" or non-qualified.

In summary, an HSA owner must complete Form 5329 to show that he or she (or the employer) made an excess HSA contribution. This is true even if the individual corrected the excess by withdrawing it.

Form **8889**
Department of the Treasury
Internal Revenue Service

Health Savings Accounts (HSAs)

► Attach to Form 1040 or Form 1040NR.
► Go to www.irs.gov/Form8889 for instructions and the latest information.

OMB No. 1545-0074
2018
Attachment
Sequence No. **52**

Part II HSA Distributions. If you are filing jointly and both you and your spouse each have separate HSAs, complete a separate Part II for each spouse.

14a	Total distributions you received in 2018 from all HSAs (see instructions)	14a	
b	Distributions included on line 14a that you rolled over to another HSA. Also include any excess contributions (and the earnings on those excess contributions) included on line 14a that were withdrawn by the due date of your return (see instructions)	14b	
c	Subtract line 14b from line 14a	14c	
15	Qualified medical expenses paid using HSA distributions (see instructions)	15	
16	Taxable HSA distributions. Subtract line 15 from line 14c. If zero or less, enter -0-. Also, include this amount in the total on Schedule 1 (Form 1040), line 21, or Form 1040NR, line 21. On the dotted line next to line 21, enter "HSA" and the amount	16	
17a	If any of the distributions included on line 16 meet any of the Exceptions to the Additional 20% Tax (see instructions), check here <input type="checkbox"/>		
b	Additional 20% tax (see instructions). Enter 20% (0.20) of the distributions included on line 16 that are subject to the additional 20% tax. Also include this amount in the total on Schedule 4 (Form 1040), line 62, or Form 1040NR, line 60. Check box c on Schedule 4 (Form 1040), line 62, or box b on Form 1040NR, line 60. Enter "HSA" and the amount on the line next to the box	17b	