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

Inform IRA and HSA Owners – Make Both Contributions as Long as Eligible

An individual, if eligible, will realize substantial tax benefits by making both a traditional IRA contribution and an HSA contribution.

Example #1. Jane Smith is single and she is age 36. She is covered under an HSA eligible HDHP. Her filing status is single and her MAGI is $59,000. She is eligible to contribute $6,000 to her traditional IRA or Roth IRA and $3,500 to her HSA. Her combined contribution and deduction amount is $9,500. This will lower her tax liability substantially.

Example #2. John Doe age 56 and Mary Doe age 57 are married. They have joint MAGI of $102,000. She may contribute $7,000 to her traditional IRA and $4,500 to her HSA for a total of $11,000. He may do the same. He may contribute $7,000 to his traditional IRA and $4,500 to his HSA for a total of $11,500. Their combined total is $23,000. This will lessen their tax liability substantially.

An HSA can be thought of as a second traditional IRA. An IRA owner who withdraws IRA funds after age 59½, in general, includes the distribution in income. An HSA owner who withdraws HSA funds after 65 and uses those funds for non-medical reasons does the same thing, includes the distribution in income. The 20% penalty tax applying to a distribution not used to pay a qualified medical expense no longer applies once a person is 65 or older.

Inform your customers that they may wish to make both a traditional IRA contribution and an HSA contribution. These are two independent contributions. The above example discusses contributing the maximum amount. An individual may contribute a lesser amount.

Upcoming IRA/HSA Deadlines

December 31, 2019

1. RMD deadline for IRA owners, except those attaining age 70½ in 2019 and IRA beneficiaries
2. 2019 Roth IRA Conversions
3. 2019 Rollover Contributions

January 31, 2020

1. RMD Notices
2. FMV Statements
3. Form 1099-R
4. Form 1099-SA
5. Certain SIMPLE-IRA Deferrals
6. 2019-2020 IRA Amendments
7. 2019-2020 HSA Amendments

Merry Christmas and Happy Holidays!

Email Guidance – Rollovers Versus Direct Rollovers

Q1. I have a rollover question. We have a client that received a check made payable to themselves from their employer's retirement plan. The client wants to keep a portion and rollover the rest. Will we code this as a rollover or a direct rollover? I keep thinking since it's from a retirement plan it should be direct rollover but since they sent it to her directly in just her name I wonder if it should be a rollover.

A1. There are direct rollovers and then there are actual rollovers which are sometimes called indirect rollovers. An actual rollover is two transactions, a distribution with a subsequent rollover contribution.

The Form 5498 has box 2 and it is labeled rollover contributions. Both direct rollovers and rollovers are reported in box 2.

If a plan participant fails to instruct within a certain time frame that he or she wants a direct rollover to their IRA, then there are times the plan administrator will issue a check directly to the participant for 80% of the vested account balance with the remaining 20% withheld for federal income tax purposes. A participant who receives such a check has 60 days to complete the rollover. The 60 day requirement does not apply to direct rollovers because the individual never received an actual distribution. In a direct rollover, the 401(k) trustee sends the check directly to the IRA custodian.

Many plans are written to require that participants who are no longer employed who have balances less than $5,000 must be paid their balances. That is, they are not permitted to remain as plan participants.

For example, Jane Doe has a vested account balance of $4,000 and she fails to instruct to have a direct rollover. The plan administrator will give her a check for $3,200. The $800 of withholding must be deposited with the IRS by the plan administrator.

Jane Doe can rollover whatever portion (1% to 100%) of the $3,200. Actually she may rollover 100% of the $4,000 if she is able to replace the $800 which was withheld.

Whatever amount of the $4,000 she does not roll over, she must include in her income and pay the applicable tax. If she is under age 59½, she will also owe the 10% tax on such income amount.

For example, if she rolled over only $2,500 of the $4,000 and she is age 41, then she will be required to include the $1,500 in her income. If her tax bracket is 22%, then her tax liability is $480 (22% x $1,500 + 10% x $1,500). $800 has been withheld. If her other tax matters balance, she should get a refund of $320.

Email Guidance – What to do When Your Core Vendor Informs You – You cannot Set Up the Inherited IRA You Want to Establish

Q-1. The saga with the 1099-R continues... ABC, our core provider says that they cannot produce a 1099-R for a business as a business cannot have an IRA. The business does not have an IRA they are a beneficiary to the IRA. The business has received the funds that have been left to them from the deceased individual.

They (ABC) are requesting documentation of some kind to prove that a business can receive a 1099-R for a death distribution. Do you have anything that I may quote to them?

One of the "solutions" suggested was to just report it under the deceased's social security number as a normal distribution and not bother with a 1099-R for the Township. To me that just seems wrong as I thought all beneficiaries that received funds must be given a 1099-R.

We CANNOT change the type of account to a "trust" for the purpose of creating a 1099-R. There are too many compliance issues with that.

Do you have any suggestions???

A1. Here is some additional discussion which you can share with ABC.

You are correct. An inheriting IRA beneficiary situation exists. The IRA owner has died. This is not a situation where a new IRA is being established. Certainly a business or a county cannot establish a new IRA.

It is probably easiest for the bank to manually prepare the 2019 Form 1099-R and mail it to the county and the IRS.

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Email Guidance,
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An IRA custodian is only required to file this information electronically with the IRS if it will file 250 or more 1099-R forms for 2019.

Will the bank prepare 250 or more Form 1099-R's for 2019? If not, why not prepare it manually. We could help.

Even if the bank will exceed the 250 limit, it could be prepared manually if ABC would be willing to cover the possible IRS fine of $540 ($270 x 2) for not submitting it electronically.

Or, for a fee of $75 we at CWF could submit the form on behalf of the bank to the IRS electronically. Obviously, we would need to be provided a copy of the paper version and a written letter authorizing CWF to make the filing.

It appears the ABC system is designed so that an inherited IRA can be established for a beneficiary only if that beneficiary is eligible to establish a regular IRA. The tax rules do not set forth this restriction. The ABC system needs to be revised to eliminate this restriction.

I'm being a devils advocate, but certainly ABC is aware that many times an IRA owner will designate a charity (a tax exempt entity and not a living person) as his or her IRA beneficiary. Designating a county or other governmental entity as an IRA beneficiary is not much different. Presumably, the governmental entity will generally be a tax exempt entity also. If the inheriting IRA beneficiary was the Red Cross or Michigan State University how would a distribution to these entities be handled under the ABC system?

I have attached two pages from the IRS instructions for Form 1099-R. The IRS instructions for Form 1099-R require that a Form 1099-R be issued to any person or entity which is paid funds from an IRA. There is one exception. Distributions of less than $10 (on an annual basis) do not need to be reported. The IRS in the instructions uses the term "person" in the broadest sense. Any legal entity as recognized for federal income tax purposes is a person for IRA and pension plan distribution purposes. It would be nice if this IRS made this more clear. The IRS expects that the core vendor on behalf of IRA custodian or the 401(k) trustee knows that "person" means all legal entities, including individuals.

I am aware of no federal law or state law that defines certain persons or legal entities as being ineligible to be designated as an IRA beneficiary.

There is no federal tax rule stating or defining that a business or any other legal entity which is a designated IRA beneficiary is ineligible to be paid an IRA distribution.

Every recipient of an IRA distribution has the duty to determine if he/she/it must include the distribution in their income. The IRS' administrative approach is, we assume the recipient of any IRA or pension distribution must include the distribution in its taxable income and pay the tax liability unless the recipient explains on their tax return why the distribution (or portion) is not subject to taxation.

In summary, I realize ABC is a very large company, but it needs to modify its IRA software so that a Form 1099-R is able to be prepared to report a distribution of inherited IRA funds to a legal entity even though that legal entity is ineligible to set up a new IRA.

States Taking IRA Funds – IRA/IRS Compliance Concerns With Respect to Federal Income Withholding Rules

Each state of the United States has its own set of laws impacting IRA.

Each state will have laws defining when a creditor is able to access a person's IRA in order to get paid. Many times a state or a department of a state wants to get paid and laws have been enacted authorizing payment from a person's IRA. For example, if a person with an IRA becomes sufficiently late with family support payments, the state may levy on the person's IRA.

The State of Missouri has enacted such a law with respect to being incarcerated. The individual is required to pay a certain cost related to their incarceration. And if the person is unable or unwilling to voluntarily pay a court order may be obtained by the state department to withdraw the necessary funds from the person's IRA. This proceeding is an ex parte situation as the bank had no input with respect to the court order.

If your institution is presented with this situation or a similar situation, your law firm must be consulted. Set forth below is our discussion of this subject.

This situation presents a possible conflict between a state court order and IRS rules regarding federal withholding.

Prior to any IRA distribution the IRA accountholder must be furnished IRS Form 4-P or a substitute form explaining the withholding rules and then the individual has the right to instruct how much (or the percentage) he or she wants withheld.

The critical point is, the IRS believes when there is any IRA distribution that the IRS at minimum is entitled to be paid 10% of the distribution. That is, the state cannot take 100%. The state could take 100% if the individual instructs that he or she wants no withholding. The financial institution must be aware the individual might instruct to have 100% withheld to go to the IRS. Obviously, the state may not agree with this result. That is why your law firm needs to be involved.

Set forth is our discussion.

You must consult immediately with the bank's law firm about this situation. The bank or the bank's attorney may need to go into court to explain the bank's situation. The bank does not want to pay the State immediately.

This matter involves state law and federal income tax law. The court order fails to address the federal tax laws requiring withholding of federal income tax for an IRA distribution.

Although not a party to the lawsuit, the Circuit Court has ordered the bank to pay immediately 90% of a certificate of deposit (CD) and 90% of a savings account which the person has at the bank.

Does the individual maintain an IRA? The court order does not make clear that the certificate of deposit and the savings account are IRA related.

The bank as the IRA custodian owns IRA funds on behalf of an individual. An IRA is a quasi-fiduciary account. The bank has certain fiduciary duties.

Apparently state law allows the state to use a person's assets, including an IRA, to pay for certain incarceration costs.

Before any money can be withdrawn from an IRA, federal law requires, in general, the bank as the IRA custodian must furnish an IRA withholding notice to the IRA owner. See IRS Form W-4P and CWF's IRA distribution form. Federal tax law mandates that the IRA custodian must withhold 10% of the distribution amount unless the individual instructs in writing that he wants no withholding. A state court has no authority to rule that the bank need not follow the withholding laws.

The IRA owner has the right to instruct what amount is to be withheld for federal income tax purposes. If he fails to instruct that he wants 0.00 % withheld, then the bank must withhold 10%. However, he has the right to have more than 10% withheld, including he could instruct to have 100% of the distribution withheld. This means the state would receive nothing from the bank as the IRA custodian. Presumably, the state may not agree with this result or find it acceptable.

The individual may or may not figure out he has the right to have/instruct 100% of the distribution be withheld for federal income tax purposes. Presumably, the bank does not have the duty to inform him.

The position of the IRS is - the bank is liable to the US government if the bank fails to withhold and remit to

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Compliance Concerns,
Continued from page 4

the IRS as the tax rules require.

Presumably, the position of the individual will be, the bank is liable to him if he instructs to have 100% withheld and the bank remits his funds to the state rather than the IRS.

If the bank does remit his IRA funds to the state or the IRS, such distribution amount is treated as a distribution to the individual for purposes of the 2019 Form 1099-R. He must include this amount in his 2019 income. And, if he under age 59½, he will owe the additional 10% tax.

In summary, discuss immediately with your law firm and furnish to the individual the federal income tax withholding' form applying to an IRA distribution.

Direct Rollovers From 401(k) Plans, 403(b) Plans and Complying With the RMD Rules

An RMD is always ineligible to be rolled over. There is no exception.The RMD rules apply to both 401(k) plans and IRAs. There will be times when the 401(k) administrator or the 401(k) participant wants to adopt a "simpler" approach. That is, the individual's total account balance is directly rolled over and then the individual takes their 401(k) RMD from their IRA. IRS rules do not permit this approach.

Some 401(k) plans and other retirement plans are written to provide that a person who is not 5% owner is not required to take an RMD until the year he or she separates from service. We were recently asked to assist with respect to a 73 year old doctor who was separating from service on December 31, 2019. Because he will separate from service in 2019, he must take an RMD for 2019. His deadline (his required beginning date) is April 1, 2020.

Set forth below is our email guidance. The direct rollover amount of $5.4 million is substantial and so is his 2019 RMD.

Situation

My client is currently 73 years old and doesn't turn 74 until June 2020. He is officially retiring/terminating service on 12/31/2019. He has a 5.4 million 401(k) with a small balance in a 403(b) which would be included in the RMD calculation. We will be rolling these assets into an IRA that is already open.

Discussion

Has your client been furnished a form or forms that he must complete regarding his withdrawing his account 401(k) balance and his 403(b) balance?

It would be very helpful to review the two forms and we could discuss.

The law requires a non-5% owner participant who is over age 70½ and still employed to withdraw his RMD for the year of separation. This is 2019. There is an RMD for the year of separation. His required beginning date is 4-1-2020.

When will the actual distributions take place? Will the checks or the deemed checks be dated 2019 or 2020?

When will he receive these distributions? Does he want to have a distribution in 2019 and 2020 or will he be satisfied if distributions commence in 2020?

Could the 403(b) plan be 100% distributed (less the RMD) in 2019? If so, why not get it done? Does he have the right to take a distribution from the 403(b) even though he is still employed? I would think yes for the 403(b) plan. I would also think he would have this right with respect to the 401(k) plan, but the plan document must be checked.

An RMD is ineligible to be rolled over or directly rolled over. There is no exception to this rule. An RMD must always be withdrawn before any other withdrawals or distributions may be made.

His RMD for 2019 is: FMV of 401(k) account as of 12/31/2018 /24.7. The deadline to withdraw this RMD is 4-1-2020. He includes this amount in his income for the year he receives the distribution. The date on the check does not control. Since he is age 73 during 2019 his divisor for the 2019 RMD calculation is 24.7.

His RMD for 2020 is: FMV of 401(k) account as of 12/3 019 /23.8. The deadline to withdraw this RMD is 12-31-2020. He includes this amount in his income for the year he receives the distribution. Since he is age 74 during 2020 his divisor for the 2020 RMD calculation is 23.8.

The 401(k) administrator should be determining these RMD amounts and then one should review to determine

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NEW Proposed RMD Tables For 2021

Friday, November 8, 2019, the IRS issued new proposed regulations impacting RMD calculations for 2021 and subsequent years and also substantially equal periodic payments as discussed in Rev.Rul. 2002-62.

The IRS has determined that the three life expectancy tables used for the various RMD calculations should be updated to reflect the fact that current life expectancies have improved since the issuance in 2002 of the current tables. The three tables are the Uniform Lifetime Table, Single Life Table, and the Joint and Last Survivor Table.

Compared to the numbers (life expectancy) set forth in the current RMD tables, the revised numbers are larger. See below. This means the RMDs being calculated will be smaller than the current calculations. Tax revenues will correspondingly decrease.

Set forth are the proposed changes to Uniform Lifetime Table and the Single Life Table. IRA RMD software, including CWF's MINCAL, will need to be revised. In certain situations the IRS is requiring that new RMD calculations must be made if the IRA owner died before January 1, 2021.

January 2021 is only 13.5 months away. Any party wishing to comment to the IRS on the proposed regulations must do so by January 7, 2020. The IRS has scheduled a public hearing for January 23, 2020.

Comparing the Uniform Lifetime Tables 2002-2020 Versus 2021-Onward

Uniform Lifetime Table

Age of IRA Accountholder	Distribution Period (2002)	Proposed 2021	Age of IRA Accountholder	Distribution Period (2002)	Proposed 2021
70	27.4	29.1	**96**	8.1	8.3
71	26.5	28.2	**97**	7.6	7.8
72	25.6	27.3	**98**	7.1	7.3
73	24.7	26.4	**99**	6.7	6.8
74	23.8	25.5	**100**	6.3	6.4
75	22.9	24.6	**101**	5.9	5.9
76	22.0	23.7	**102**	5.5	5.6
77	21.2	22.8	**103**	5.2	5.2
78	20.3	21.9	**104**	4.9	4.9
79	19.5	21.0	**105**	4.5	4.6
80	18.7	20.2	**106**	4.2	4.3
81	17.9	19.3	**107**	3.9	4.1
82	17.1	18.4	**108**	3.7	3.9
83	16.3	17.6	**109**	3.4	3.7
84	15.5	16.8	**110**	3.1	3.5
85	14.8	16.0	**111**	2.9	3.4
86	14.1	15.2	**112**	2.6	3.2
87	13.4	14.4	**113**	2.4	3.1
88	12.7	13.6	**114**	2.1	3.0
89	12.0	12.9	**115**	1.9	2.9
90	11.4	12.1	**116**		2.8
91	10.8	11.4	**117**	1.6	2.7
92	10.2	10.8	**118**	1.4	2.5
93	9.6	10.1	**119**	1.1	2.3
94	9.1	9.5	**120**	1.0	2.0
95	8.6	8.9			

Comparing the Single Life Tables 2002-2020 Versus 2021-Onward

Age of IRA Beneficiary	Distribution Period (2002)	Proposed 2021	Age of IRA Beneficiary	Distribution Period (2002)	Proposed 2021	Age of IRA Beneficiary	Distribution Period (2002)	Proposed 2021
0	82.4	84.5	**51**	33.3	35.2	**102**	2.5	2.5
1	81.6	83.7	**52**	32.3	34.3	**103**	2.3	2.3
2	80.6	82.7	**53**	31.4	33.3	**104**	2.1	2.2
3	79.7	81.7	**54**	30.5	32.4	**105**	1.9	2.1
4	78.7	80.8	**55**	29.6	31.5	**106**	1.7	2.1
5	77.7	79.8	**56**	28.7	30.6	**107**	1.5	2.1
6	76.7	78.8	**57**	27.9	29.7	**108**	1.4	2.0
7	75.8	77.8	**58**	27.0	28.8	**109**	1.2	2.0
8	74.8	76.8	**59**	26.1	27.9	**110**	1.1	2.0
9	73.8	75.8	**60**	25.2	27.1	**111**	1.0	2.0
10	72.8	74.8	**61**	24.4	26.2	**112**		2.0
11	71.8	73.8	**62**	23.5	25.3	**113**		1.9
12	70.8	72.8	**63**	22.7	24.5	**114**		1.9
13	69.9	71.9	**64**	21.8	23.6	**115**		1.8
14	68.9	70.9	**65**	21.0	22.8	**116**		1.8
15	67.9	69.9	**66**	20.2	22.0	**117**		1.6
16	66.9	68.9	**67**	19.4	21.2	**118**		1.4
17	66.0	67.9	**68**	18.6	20.4	**119**		1.1
18	65.0	66.9	**69**	17.8	19.5	**120**		1.0
19	64.0	66.0	**70**	17.0	18.7			
20	63.0	65.0	**71**	16.3	17.9			
21	62.1	64.0	**72**	15.5	17.1			
22	61.1	63.0	**73**	14.8	16.3			
23	60.1	62.0	**74**	14.1	15.6			
24	59.1	61.1	**75**	13.4	14.8			
25	58.2	60.1	**76**	12.7	14.0			
26	57.2	59.1	**77**	12.1	13.3			
27	56.2	58.2	**78**	11.4	12.6			
28	55.3	57.2	**79**	10.8	11.9			
29	54.3	56.2	**80**	10.2	11.2			
30	53.3	55.3	**81**	9.7	10.5			
31	52.4	54.3	**82**	9.1	9.9			
32	51.4	53.4	**83**	8.6	9.2			
33	50.4	52.4	**84**	8.1	8.6			
34	49.4	51.4	**85**	7.6	8.1			
35	48.5	50.5	**86**	7.1	7.5			
36	47.5	49.5	**87**	6.7	7.0			
37	46.5	48.6	**88**	6.3	6.6			
38	45.6	47.6	**89**	5.9	6.1			
39	44.6	46.6	**90**	5.5	5.7			
40	43.6	45.7	**91**	5.2	5.3			
41	42.7	44.7	**92**	4.9	4.9			
42	41.7	43.8	**93**	4.6	4.6			
43	40.7	42.8	**94**	4.3	4.2			
44	39.8	41.8	**95**	4.1	3.9			
45	38.8	40.9	**96**	3.8	3.7			
46	37.9	39.9	**97**	3.6	3.4			
47	37.0	39.0	**98**	3.4	3.2			
48	36.0	38.0	**99**	3.1	3.0			
49	35.1	37.1	**100**	2.9	2.8			
50	34.2	36.1	**101**	2.7	2.6			

Direct Rollovers,
Continued from page 5

if correct. Similar calculations would be made for the 403(b) plan. There must be separate RMD calculations. There cannot be one combined RMD calculation.

If both the 2019 RMD and the 2020 RMD are distributed to him in 2020, then the remainder can be directly rolled over to his traditional IRA in 2020.

IRS Adopts Final Regulation Confirming No Claw Back of Large Gifts Made Before 2026

The IRS had issued a proposed regulation in November of 2018. The IRS issued its final regulations on November 26, 2019.

Under current tax law, there is a higher gift and estate tax exclusion amount in effect for 2018-2025. For 2019, the inflation adjusted basic exclusion amount is $11.4 million or $22.8 for a married couple. Commencing in 2026 the basic exclusion amount will revert to the 2017 level of $5 million as adjusted for inflation.

The concern is, does a person who makes a large gift between 2018-2025 because of the larger basic exclusion amount have to worry about a tax recapture situation when the basic exclusion amount is reduced commencing in 2026. In general, the answer is no. There will be no additional tax owing.

These final regulations are effective on or after November 26, 2019.

There will be times when IRAs and pension benefits comprise a significant portion of a person's estate.

The maximum estate tax rate is 40% for 2018 and thereafter.

The Tax Cuts and Jobs Act of 2017 (TCJA) increased the exclusion amount applying to a decedent's estate to $10 million from $5 million for estates of decedents dying after December 31, 2017 and before January 1, 2026. These exclusion amounts are indexed for inflation after 2011.

Therefore, the exclusion limit for 2017 was $5.49 million, $11,180,000 for 2018 and $11,400,000 for 2019.

In computing the amount of federal gift tax to be paid on a gift or the amount of federal estate tax to be paid at death, the gift and estate tax provisions require applying a unified tax rate schedule to the person's aggregated or cumulative total of taxable gifts and his or her taxable estate after his or her death to arrive at a net tentative tax. This net tentative tax is reduced by a credit equal to the applicable exclusion amount.

Commencing on January 1, 2026, the exclusion amount reverts to $5 million as indexed. It is estimated that this indexed amount will be $6,260,000.

Estate tax law now authorizes the estate of a decedent dying on or after January 1, 2011 to transfer to the surviving spouse any portion of the unused exclusion amount if an election is timely made. Thus, there will be no federal estate tax for decedents dying in 2019 as long as the married couples estates are less than $22.8 million and $11.4 million for a single person.

The tax issue, what happens if a single person made taxable gifts of $8 million in 2019 when the exclusion amount is $11.4 million, but then dies in 2027 when the exclusion amount has reverted to be $5 million? Will the person's estate owe a net tentative tax due now that the exclusion amount has been decreased?

There will be no net tentative tax is this situation. The final regulation provides that the credit to be claimed on the estate's return is the larger of the exclusion amount as in effect on the decedent's date of death or the exclusion amount to be used to determine the gift tax payable. This means the decedent's estate is not inappropriately taxed with respect to gifts made when exclusion amount was greater.