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“The Pension Specialists”



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Updated IRA Forms and Software Needed for 2021

A financial institution wants to use updated IRA forms for at least two reasons. First, you want to provide excellent service to your IRA clients. Secondly, you want to reduce possible liability claims because your old forms mislead your IRA client or IRA beneficiary. The SECURE Act and the CARES Act made major changes in various IRA laws. The RMD age was changed to age 72 from age 70½. Beneficiaries of IRA owners dying in 2020 or subsequent years have changed radically for most beneficiaries. Existing beneficiaries should be informed that upon their death their beneficiary in general will be required to close the inherited IRA under the 10-year rule.

An IRA custodian/trustee should be using updated IRA plan agreements and revised administrative forms. We at CWF have revised the following forms:

1. IRA Amendments
2. IRA Contribution forms
3. IRA distribution forms - new discussion regarding the two new exceptions to the 10% addition tax for a disaster distribution or a distribution after a birth or an adoption
4. Election or instruction form for a beneficiary who is not an EDB. This is CWF Form 206 or 206-R
5. Election or instruction form for a beneficiary who is an EDB. This is CWF Form 204 and 204-R
6. Rollover Certification Forms (IRA to person to IRA). Form 65-A

7. Rollover or Direct Rollover Certification Form (401(k) to IRA). Form 65-B
8. Repayment of a Disaster Distribution. Form 65-DIS
9. Transferring an Inherited IRA. Form 56-I and 56-RI.
10. RMD Notices for 2021.

Upcoming 2021 IRA Furnishing and Filing Deadlines

FMV IRA Statement to IRA Owners and Beneficiaries	2/1/2021*
Form 1099-R IRA Distributions to IRA Owners and Beneficiaries	2/1/2021*
Form 1099-R IRA Distributions to IRS If File on Paper	3/1/2021**
Form 1099-R IRA Distributions to IRS If File Electronically	3/31/2021
RMD Notice to IRA Owners Age 72 or Older in 2021	2/1/2021*
Form 5498 (IRA Contributions to IRA Owners and Beneficiaries)	6/1/2021***
Form 5498 (IRA Contributions to IRS)	6/1/2021***

* (Since 1/31/21 is a Sunday)

** (Since 2/28/21 is a Sunday)

*** Statutory deadline is May 31, 2021. IRS should explain why the 2020 instructions at one place indicate the deadline is 6/1/21 and at another place indicates the deadline is 5/31/20.

9898 ☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and phone no.		1 Gross distribution \$		OMB No. 1545-0119 <div style="font-size: 2em; font-weight: bold;">2020</div> Form 1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2020 General Instructions for Certain Information Returns.
		2a Taxable amount \$			
		2b Taxable amount not determined <input type="checkbox"/> Total distribution <input type="checkbox"/>			
PAYER'S TIN	RECIPIENT'S TIN	3 Capital gain (included in box 2a) \$	4 Federal income tax withheld \$		
RECIPIENT'S name		5 Employee contributions/ Designated Roth contributions or insurance premiums \$	6 Net unrealized appreciation in employer's securities \$		
Street address (including apt. no.)		7 Distribution code(s)	8 Other		
City or town, state or province, country, and ZIP or foreign postal code		9a Your percentage of total distribution %	9b Total employee contributions \$		
10 Amount allocable to IRR within 5 years \$	11 1st year of desig. Roth contrib.	12 FATCA filing requirement <input type="checkbox"/>	14 State tax withheld \$		
15 State/Payer's state no.	16 State distribution \$				
Account number (see instructions)		13 Date of payment	17 Local tax withheld \$		
18 Name of locality		19 Local distribution \$			

Guidance to Prepare the 2020 Form 1099-R to Report a Traditional IRA, SIMPLE-IRA or SEP-IRA Distribution

What's New.

The IRS has stated an IRA custodian/trustee may report a code "1" or a "2" in box 7 to report a disaster distribution. The secure Act creates a new exception to the 10% early distribution tax for certain withdrawals of up to \$5,000 for a qualified birth or adoption.

The RMD age is now age 72 and no longer age 70^{1/2}.

Online fillable forms. To ease statement furnishing requirements, Copies B, C, D, 1, and 2 have been made fillable online in a PDF format available at [IRS.gov/Form1099R](https://www.irs.gov/Form1099R) and [IRS.gov/Form5498](https://www.irs.gov/Form5498). You can complete these copies online for furnishing statements to recipients and for retaining in your own files.

#1. An IRA includes all investments under one IRA plan agreement. File only one Form 1099-R no matter how many distributions have been made from the investments of the same IRA plan agreement during one year unless different reasons codes apply. Example, Jane Doe is paid a death distribution (reason code #4) from her former spouse's IRA (she did not treat this IRA as her own) and she is also paid a distribution from her only IRA. She is age 65 (reason code #7). One

Form 1099-R must be filed for all distributions with a reason code 4 and a Form 1099-R must be filed for all distributions with a reason code 7.

- #2. The Form 1099-R and the Form 5498 are per plan agreement forms. If a person, age 65, has two traditional IRA plan agreements and takes a distribution from each IRA, he or she must be furnished two 1099-R forms each having a reason code 7 in box 7. The IRA custodian could be fined \$280.00 times 2 if it only created one Form 1099-R. The IRA custodian must file Form 1099-R using the same name and EIN/TIN used to deposit any tax withheld and to file Form 945, Annual Return of Withheld Federal Income Tax.
- #3. The IRS wants an IRA custodian to prepare a Form 1099-R for every distribution, even those less than \$10.00.
- #4. If an IRA custodian is required to file a Form 1099-R, then it must furnish a statement (i.e. a copy of the 1099-R form) to the recipient.
- #5. An account number must be used on a Form

Continued on page 3

2020 Form 1099-R,
Continued from page 2

1099-R when a recipient has more than one IRA plan agreement and you are required to file multiple Form 1099-R's. However, the IRS encourages an IRA custodian to designate an account number for all Form 1099-Rs which it files.

- #6. Never enter a negative amount in any box on Form 1099-R.
- #7. Use the name and TIN of the individual or entity which receives funds from the IRA. Normally, this will be the IRA accountholder. However, if you make a distribution to a beneficiary (whether an individual, trust or estate), then the 1099-R is prepared using the name and TIN of the beneficiary. You do not use the name of the decedent for payments made to beneficiaries after his or her death.
- #8. An IRA custodian has a duty to correct a Form 1099-R that it knows was prepared incorrectly. The correction must be made as soon as possible. See the IRS instructions as the law now does allow the IRA custodian to not correct an incorrect Form 1099-R in some limited situations.
- #9. For a distribution from a traditional IRA, SEP-IRA or SIMPLE-IRA boxes 1 and 2a are to be completed with the same amount unless the IRS instructions discuss a special situation.
- #10. For a distribution from a Roth IRA, box 2a is to be left blank unless an exception applies.
- #11. An IRA custodian will generally check box 2b, taxable amount not determined. There will be times when it is not checked - withdrawal of an excess or current year contribution before the due date, a recharacterization and rolling funds from an IRA into an accepting employer plan.
- #12. The total distribution box is also found in 2b. An "X" is to be entered in this box when the amount shown in box 1 is a total distribution. The instructions for the total distribution section of box 2b are not as clear as they should be. It is doubtful if this box applies to IRA distributions; but the instructions are unclear, and an IRA custodian should complete the box pursuant to the instructions. In order for a person to use the favorable 10 year averaging or capital gain treatment he or she must receive a total distribution. Such treatment does not ever apply to any type of IRA distribution. If this box is not checked, the

IRS will question an individual's attempt to use 10 year averaging. A total distribution is one or more distributions within one tax year in which the entire balance is distributed. This means if two or more nonperiodic distributions occur in more than one year, then there is no total distribution and the box does not need to be checked. For example, a person with an IRA balance of \$30,000 withdraws \$10,000 in 2018 and the remainder in 2020 has not had a total distribution. Exception. If periodic or installment payments are made in more than one year, this box is to be marked for the year in which the final payment is made.

- #13 For a distribution of contributions plus earnings from an IRA under **section 408(d)(4)**, report the gross distribution in box 1, only the earnings in box 2a, and enter Code 8 or P, whichever is applicable, in box 7. Enter Code 1, 2, 4 or 7, if applicable.
- #14. For a distribution of contributions without earnings after the due date of the individual return, under **section 408(d)(5)**, leave box 2a blank, and check the "Taxable amount not determined" check box in 2b. Use Code 1 or 7 in box 7 depending on the age of the accountholder.
- #15. For a distribution from an IRA that is payable to the trustee of, or is transferred to, an employer plan, or for an IRA recharacterization, enter 0 (zero) in box 2a.
- #16. In box 7 indicate the distribution code and enter an "X" in the **IRA/SEP/SIMPLE check box** if the distribution is from a traditional IRA, SEP-IRA, or SIMPLE-IRA. Do NOT check the box for a distributing from a Roth IRA or for an IRA recharacterization.
- #17. **Roth IRAs.** For a distribution from a Roth IRA, report the total distribution in box 1 and leave box 2a blank except in the case of an IRA revocation or account closure and a recharacterization. Use Code J, Q, or T as appropriate in box 7. Use Code 8 or P, if applicable, in box 7 with Code J. Do not combine Code Q or T with any other codes.

However, for the distribution of excess Roth IRA contributions, report the gross distribution in box 1 and only the earnings in box 2a. Enter Code J and Code 8 or P in box 7.

Email Guidance – Inherited IRAs Under the New Laws

Q-1. I have 3 customers now that have died in fall/winter of 2020. Do their IRAs have to be transferred to beneficiary before end of year 2020? I am thinking they have till end of year 2021, but not sure. Trying to get them in the bank to transfer is like pulling teeth.

A-1. There is not an immediate need to create the inherited IRAs, but the deadline is not December 31, 2021. The deadline is either May 31, 2021, or January 31, 2021.

Technically, an IRA custodian must furnish a beneficiary with a FMV statement and the 2020 Form 5498. I personally like to think the IRS would not fine an IRA custodian if it would not furnish the FMV statement by 1/31/21 especially if the beneficiary is unwilling to assist with establishing their inherited IRA.

I would think you could do much of this remotely - email or by fax.

See page 5 of the IRA plan agreement. You have the authority to establish the inherited IRAs, but you do need to have the beneficiary's CIP information so there is compliance with the CIP rules.

Q-2. We have a customer that has a traditional IRA and he has passed away. His spouse is the primary beneficiary and she does have an existing traditional IRA with us as well. She does not wish to transfer and treat as her own. She would like to close it and have a check issued to her. Will we need to transfer to her IRA and then distribute or can we close and distribute by check to her?

A-2. Most likely you will want to transfer his IRA funds into her IRA even though she wants to withdraw that amount.

How old is she?

Because you are making the distribution to her, the bank must prepare a Form 1099-R for her and report the withdrawal amount.

Do you have the "easy" capability of getting her form 1099-R prepared if she withdraws the funds from his

IRA or will it be easier for you to put his funds into her IRA and then she takes the withdrawal?

In both situations she should complete the IRA distribution form.

Q-3. I hope this will be a pretty straightforward and easy question but just wanted to confirm prior to taking action.

I have a retired accountant (Mark) who is a client and his wife (Mary) just passed away on 12/05/2020. They both have an IRA and Roth IRA with me.

Mark's date of birth - 10/22/1943

Mary's date of birth - 10/24/1943

I don't believe that the SECURE Act has affected spouses inheriting IRA assets but just wanted to make sure that I was up to speed on reg's.

My question is if I can simply transfer these IRAs for Mary the deceased spouse into the already set up IRAs I have for her husband and beneficiary of the IRAs?

I have one payment of \$1,461.46 to complete Mary's 2020 RMD. I will distribute this amount fully satisfying the 2020 RMD and then transfer the IRA assets to Mark's IRA prior to 12/31/2020 and then continue with the RMD for him based upon the 12/31/2020 balance for 2021.

I would do the same for the Roth but as we know there is no RMD and I would simply just transfer these assets into his Roth.

In your professional opinion, can I facilitate these in this manner to simplify not having to set up new IRAs for the spouse?

Is there anything that I am missing here?

A-3. I understand he was the sole primary beneficiary of her traditional IRA and her Roth IRA. If so, he has the right to elect to treat these two IRAs as his own IRAs. The funds may be transferred from each respective IRA into his existing respective IRAs. He may elect as his, own by using either a contribution form and or a distribution form instructing the non-reportable transfers. See attached traditional IRA forms and Roth IRA forms. Withdraw from hers and contribute to his two IRAs.

The CARES Act waived all RMDs for 2020. You do not need to distribute to him as a beneficiary the amount

which would have been her RMD for her traditional IRA for 2020. He also has no RMD for 2020.

If a spouse dies when there is an RMD for that year which has not been taken, we understand the general administrative approach may be: transfer all of her traditional IRA into his traditional IRA and then he must take the RMD amount as calculated for her and which she had not taken and his own RMD by December 31. There could be taken just one distribution for the aggregate amount. Reason code 7 could be used. You may distribute the RMD to the surviving spouse before the transfer as a death distribution, but you are not required to.

His RMD for 2021 will be based on his aggregate IRA balance as of 12/31/20.

Q-4. Highstate Bank has a customer with an inherited IRA. It was set up last year, he was the beneficiary of his grandmother's IRA (her spouse was already deceased). His tax person says he needs to transfer this inherited IRA to a certified IRA. I have not heard of a certified IRA. Doesn't an inherited IRA have to remain and inherited IRA? Thank you for your help.

A-4. Yes, an inherited will always remain an inherited until it is finally closed. Beneficiaries often choose to not close out an inherited IRA right away because the beneficiary still receives the benefit that the funds in the inherited IRA are tax deferred until withdrawn.

I have worked with IRAs and pension plans since 1977. I am an attorney. I have never heard of the term "a certified IRA." If this tax person has something in writing explaining what a certified IRA is, your customer, you and I could review it to see how the certified IRA is better than the inherited with Highstate Bank.

Q-4A. I also wanted to make sure, even the RMD on an inherited IRA can be deferred this year due to the CARES Act, is this correct?

A-4A. I'm being technical, but there is no RMD for 2020. The 2020 RMD is waived, it is not being deferred. The 2020 RMD amount is not required to be taken in a subsequent year along with an RMD for another year.

Although in a general sense it is being deferred because it is not taken this year.

Q-4B. Thank you for the information: I do have one more question on this inherited IRA, the grandmother was elderly and in RMD status and had taken her 2019 RMD already, (she passed away in 2019), and the grandson is in his 30's. Is there a 5-year or 10-year rule that applies to this IRA or can he continue with the life expectancy table? He does not want to take an RMD this year, but need to know for 2021 RMD.

A-4-B. Because she died in 2019, the grandson is grandfathered under the old rules and he is able to use the life distribution rule and he will do so for as long as he is alive. Upon his death, his beneficiary will be required to use the 10-year rule as long as his beneficiary is a living person. Otherwise the 5-year rule will apply to his beneficiary (e.g. his estate).

The life expectancy rule requires that the age of the beneficiary is determined during the year after the year the IRA owner died. This is 2020 because she died in 2019.

For example, if the son is age 35 in 2020 then the divisor for 2020 from the old single life table is 48.5, but it was not used because the CARES Act waived the 2020 RMD. See the attached Single Life Tables - old and new.

He will be required to take an RMD for 2021. The divisor for his 2021 RMD calculation will be 47.5 (48.5 - 1.0). The divisor for his 2022 RMD calculation will be 48.5 (50.5 - 2.0). The new Single Life expectancy table will be used for the 2022 calculation and subsequent years. For each subsequent year the divisor is determined by using the reduce by 1.0 method.

Q-5. I have a bank client who's father passed away this summer and he is the named beneficiary on his IRA. I wanted to get my ducks in a row with the change in rules with the SECURE and CARES Act before responding back to him. I may have to get more details based upon your response, but this is what I know at this point.

Inherited IRA Beneficiary date of birth: 12/12/1954
Traditional IRA

Inherited IRAs,
Continued from page 5

My interpretation of the rules leads me to this process:

- Submit a trustee to trustee transfer request to the current custodian/trustee
- Set up a new inherited IRA at Bank Iowa
- Even though an RMD is required prior to 12/31 in the year the owner passed away, the Cares Act waives this requirement for 2020.
- Beneficiary would be required to withdraw entire balance by 12/31 of the 10th year. In this case, the inherited IRA would need to be fully depleted by 12/31/2029.

Questions:

- Do we need to use the single life expectancy or uniform lifetime table since there is not requirement to take an RMD each year? Would we just set divide the total amount of the IRA by 10 and distribute this amount each year to ensure that the IRA is fully depleted by this 10 year deadline?
- Is there anything else that I need to be aware of in facilitating this transaction?

A-5. You are correct in your understanding except his deadline to close the inherited IRA is 12/31/2030 and not 12/31/2029. The IRS has adopted the rule - the close out date is December 31 of the year containing the 10th anniversary of the IRA owner's death. So the time period is 10/11 years.

A non-EDB beneficiary is ineligible to use the life-distribution rule so the life expectancy tables are not used by such a beneficiary.

Under the 10-year rule he may establish a periodic distribution schedule, but this is not required. A beneficiary is able to take non-periodic distributions.

He will want to designate his own beneficiary(ies). Should he die before 12/31/2030, then his

beneficiary(ies) will be required to close out the inherited IRA by 12/31/2030.

I have attached various forms you may consider using.

Email Guidance – SIMPLE-IRAs

Q-1. Can you refresh my memory? Even though we receive contributions in 2021 for 2020 there is not anything special we have to do so that the 5498 matches with the distributions shown by the company in 2020?

A-1. Yes. The bank's reporting duties are quite limited for employer contributions made to a SIMPLE-IRA or a SEP-IRA.

With respect to SIMPLE-IRA Contributions, the bank does not reporting separately the amount of the employee's elective deferrals versus the matching contribution made by the employer. That information (at least the employee's elective deferrals) is shown on each employees' W-2 form. The employer's matching contribution or nonelective contribution is not reported on Form W-2.

The bank reports such contributions in the year you receive them on that year's Form 5498 regardless if the contribution has been designated for the prior tax year.

The IRS's ability to match deferrals made by individuals and the amount the employer claims as a tax deduction for its SIMPLE-IRA contributions is minimal. The IRS would need to be auditing the employer's payroll process and/or the employer's tax return.

Q-2. We have opened a new SIMPLE-IRA plan for an employer. He will be matching the employees contribution **up** to 3%. I had an employee of this business ask if they can contribute more than 3%. Are they able to contribute more than the 3%?

A-2. Yes a person may make elective deferrals of more than 3% of their compensation. For 2020 and 2021 a person under age 50 can make a maximum contribution of \$13,500 and if age 50 or older the maximum is \$16,500. A person could contribute a percentage as high as 92.35% of their compensation up to the maximum amount.

SIMPLE-IRAs,
Continued from page 6

Q-3. Quick question, participants of a SIMPLE-IRA Plan did not contribute in April due to mandatory office closure from COVID-19. Can they contribute the max for the year? Please advise.

A-3. A participant is able to contribute the maximum 2020 SIMPLE-IRA amount. A participant would probably need to increase their elective deferral for one or more payroll periods.

Q-4. Can a self-employed person have a SIMPLE-IRA and SEP-IRA in the same year? What would be contribution limits? Can they still also contribute to a traditional IRA and backdoor Roth?

A-4. For a given year a self-employed business may sponsor either a SIMPLE-IRA plan or a SEP-IRA plan, but not both. This restriction arises under the SIMPLE-IRA rules and not the SEP-IRA rules. See attached. See the attachment showing the maximum SIMPLE-IRA and SEP-IRA contribution limits for 2020 and 2021.

In order to have a SIMPLE-IRA for 2021 an employer must generally take certain actions in 2020. The employer must decide by October 1, 2020, if it will sponsor a SIMPLE-IRA plan for 2021 and then provide certain information to the employees. The IRS has never really discussed how these SIMPLE-IRA rules apply to a one person business. The IRS has not stated these rules do not apply to a one person plan.

My point is, I'm not sure the rules permit a person to adopt the approach - at the end of each year I will decide whether I want to make a SIMPLE-IRA contribution or a SEP-IRA contribution. It may be the IRS will allow such flexibility. But I can see the IRS curtailing such flexibility by stating, a person can't have a SIMPLE plan for 2021 unless they complete certain paperwork in 2020. In general, a self-employed person will generally want to make a SEP-IRA contribution if profits are high and SIMPLE-IRA contributions when profits are low.

A person who makes or receives a SEP-IRA contribution is also eligible to make a traditional IRA contribution or a Roth IRA contribution. Making or receiving a SEP-IRA contribution does make the person an active

participant for purpose of the IRA deduction rules applying to traditional IRAs.

A person who makes or receives a SIMPLE-IRA contribution is also eligible to make a traditional IRA contribution or a Roth IRA contribution. Making or receiving a SIMPLE-IRA contribution does make the person an active participant for purpose of the IRA deduction rules applying to traditional IRAs.

Email Guidance – RMDs for 2021

Q-1. This year's 701/2 distribution will be based for 2020 & 2021 or just 2021? In other words, are they going to duplicate the distribution or is 2020 a forgotten year?

A-1. All RMDs for 2020 were waived forever. They were not postponed or suspended to be withdrawn later.

One viewpoint is, the RMD law was repealed for one year- 2020.

The RMD laws again apply for 2021. Any person age 72 or older by 12/31/21 has an RMD for 2021. For those individuals older than age 72 in 2021 their deadline is 12/31/2021. A person attaining age 72 in 2021 has a deadline of April 1, 2022 since that is their required beginning date.

The new life expectancy tables are not to be used for 2021. The old 2002 tables are still to be used for 2021 RMD calculations. The IRS postponed the use of the new life expectancy tables until 2022. See the discussion in the November issue.

Are IRA Amendments Required For 2020-2021?

Yes, IRA amendments are required from a customer service viewpoint and also from an IRS compliance viewpoint. The law changes made by the SECURE Act and the CARES Act are not minor changes. They are major changes. Some would call them historic changes. Certainly, the change in the required distribution rules applying to inheriting beneficiaries are major. In general, a non-spouse beneficiary who is more than 10 years younger than the IRA owner will be required to close an inherited IRA under the 10-year rule and no longer can stretch out distributions over his or her life expectancy.

On September 8, 2020, the IRS issued Notice 2020-68. The IRS discussed the topic of IRA Amendments. IRA account-holders and beneficiaries must be informed of the new beneficiary RMD rules. The IRS stated that in order to accept contributions by eligible individuals over age 70½, the IRA plan agreement must be amended.

The governing IRA regulation requires an IRA custodian/trustee to furnish an IRA amendment when the IRA plan agreement provisions are changed or when one or more of the topics discussed in the IRA disclosure statement is no longer correct and it needs to be revised or amended to set forth a current and correct explanation. Regulation 1.408-6(4)(ii)(C) requires that an IRA amendment be furnished no later than the 30th day after the amendment is adopted or becomes effective.

A cardinal rule of IRA and pension law is, the terms of the IRA plan agreement control and in order for a person to benefit from a law change the plan document must be revised to set forth the new law. Individuals have the right to be informed and understand current laws and the particulars of the specific IRA plan agreement. Many individuals and possibly many IRA custodians might wish the law to be, since federal tax law authorizes a certain tax benefit, then a person should be able to realize a tax benefit regardless of what the IRA plan agreement provides. The law does not adopt this approach. For example, in order for a person age 74 to make an IRA contribution in 2020 or subsequent years to his or her traditional IRA, the IRA plan agreement must be revised to authorize the person to make such a

contribution. A person who wants to make an IRA contribution after April 15th under the special disaster contribution rules must be authorized to do so by the IRA plan agreement. In order for an IRA owner who attains age 70½ in 2020 to not take a required distribution for 2020, the IRA plan agreement must be amended.

When is it necessary for an IRA custodian/trustee to furnish an IRA amendment? Is it necessary or required to furnish one in 2021?

Each institution must make its own determination because one needs to understand when was the IRA agreement last amended and how is it being amended. A primary question is, "when is the last time the financial institution furnished an amendment?" What do the current IRA plan agreements provide? Are there some IRAs set up with one certain plan agreement and others with a different plan agreement?

One may learn a tax lesson the hard way, if he or she adopts the position that an amendment is not required because the IRS has not said one is required.

A long time ago (1986/1987) the IRS acknowledged that there are times that even though the IRA plan agreement has not been changed, a disclosure statement amendment must still be furnished. Example, when the deductible/nondeductible rules were first authorized in 1986/1987, such rules did not require the IRA form to be rewritten because the IRA form discusses the maximum contribution amount limit, but does not discuss the deductible/nondeductible rules. The IRS stated there needed to be a disclosure statement amendment discussing or explaining the deductible/ nondeductible rules.

In summary, answering a question whether or not an amendment is required is not simple. Each financial institution will need to make its own decision to furnish one or both amendments.

It is true that the IRS has not been very active in auditing whether or not IRA custodian/trustees are furnishing IRA amendments as required by the IRA regulation. We at CWF believe it is in the best interest of a financial institution to furnish the amendments. The governing IRA regulation provides that a \$50 fine may be assessed an institution for each time it fails to furnish the IRA plan agreement and \$50 each time it fails to furnish the IRA disclosure amendment.