

THE Pension Digest

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“The Pension Specialists”



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2022 Requirement to Reset the Divisor for a Beneficiary Using the Life Distribution Rule

The IRS finalized a number of revisions to its RMD regulation on November 12, 2020. The IRS issued new life expectancy tables to be used for 2022 RMD calculations and the IRS issued three transition rules.

Transition Rule #1. A beneficiary using the standard life distribution rule was required to determine their distribution period or divisor. This distribution period commenced for calendar years following the year the IRA accountholder died. The distribution period depended on the age of the beneficiary in that first year and using the Single Life Table. The divisor for subsequent years is determined by subtracting 1.0 for each subsequent year. **Under the transition rule, the initial divisor (i.e. the initial life expectancy) is reset by using the divisor from the new Single Life Table for the initial year.** Then, that reset divisor is determined by subtracting 1.0 for each subsequent year. This reset procedure applies to RMD calculations for 2022 and subsequent years.

See the example set forth below.

Jane Doe an IRA owner, died in 2012 at age 77. Her beneficiary was her son, Mark, whose date of birth is 2/17/70. He was age 43 in 2013. The divisor which applies for 2022 will be 33.9. The initial divisor of 40.7 for 2013 is replaced by 42.9 and the revised schedule applies to 2022 and subsequent years.

Original RMD Schedule			Reset RMD Schedule	
2013	40.7		42.9	
2014	39.7		41.9	
2015	38.7		40.9	
2016	37.7		39.9	
2017	36.7		38.9	
2018	35.7		37.9	
2019	34.7		36.9	
2020	33.7		35.9	
2021	32.7		34.9	
2022	31.7		33.9	X
2023	30.7		32.9	X

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9898 ☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.			1 Gross distribution \$		OMB No. 1545-0119 <div style="font-size: 2em; font-weight: bold;">2021</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 2021 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 \$	

Form 1099-R Cat. No. 14436Q www.irs.gov/Form1099R Department of the Treasury - Internal Revenue Service

Guidance to Prepare the 2021 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 70½.

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 and IRS.gov/Form5498. You can complete these copies online for furnishing statements to recipients and for retaining in your own files.

CWF's Suggestions for completing the 2021 For 1099-R

#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 1099-R when a recipient has more than one IRA plan agreement and when you are required to file

Continued on page 3

2021 Form 1099-R,
Continued from page 2

multiple Form 1099-R's because of different distribution codes. 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 account holder. 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 for all IRA types. 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 2019 and the remainder in 2021 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 account holder.
- #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 distribution 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

IRA Accountholder Dies After 2019

Q-1. We had an IRA client who passed away this earlier this year. She has not taken her RMD for the year yet. The beneficiaries want us to do a normal distribution and put the funds into a checking account that is still open in the IRA owner's name. Is that ok to do?

A-1. It is not okay to put a deceased person's RMD into their checking account after their dying.

Once a person dies the inherited funds now belong to the designated beneficiary(ies).

The decedent (or the decedent's personal representative) no longer has the duty to withdraw the RMD. The duty or requirement to withdraw the RMD now belongs to the beneficiary(ies). The IRS position is - if there are multiple beneficiaries, then each beneficiary has a duty to take a prorata portion of the RMD.

I presume some beneficiaries may think, what's the big deal if the remaining RMD is paid into the decedent's checking account. The law (and the IRS) has not created a special rule for this situation. It would be tax fraud on the part of a beneficiary and the bank if the RMD was paid into the decedent's checking account.

The tax law requires the proper person or party to pay the tax owed. The proper party is now the beneficiary(ies).

It would be possible for a person to designate their estate to be a beneficiary to the extent the person had not withdrawn all of their RMD for that year.

Q-2. We have a customer that passed away October 2021 at the age of 90. He named his estate as his sole beneficiary and he also had not taken his RMD for 2021 before his death.

Do the rules for estate beneficiaries remain the same? Are they still able to use the life distribution rule if they choose?

A-2. The law is unclear and unsettled on this situation. The IRS has an example in the 2020 Publication 590-B indicating that the special life distribution rule still applies when an estate is the beneficiary and the IRA owner dies after their required beginning date and after 2019.

On page 12 the IRS provides the following example:

Example. The owner died in 2020 at the age of 80, and the owner's traditional IRA went to his estate. The account balance at the end of 2020 was \$100,000. In 2021 the required minimum distribution would be \$10,870 ($\$100,000 \div 9.2$ (the owner's life expectancy in the year of death, 10.2, reduced by 1)).

If the owner had died in 2020 at the age of 68 (before their required beginning date), the entire account would have to be distributed by the end of 2025. See [Death on or after required beginning date](#) and [Death before required beginning date](#), earlier, for more information.

I believe the IRS needs to issue additional guidance on this situation. Time will tell. There was a logical reason for the special life distribution rule under the old laws when an IRA owner died after their required beginning date. The 5-year rule no longer applied if the IRA owner died after their required beginning date. That logic no longer exists now because of the changes made by the SECURE Act.

It makes no sense to me that the IRS believes the revised law allows an estate to use the special life distribution rule for an estate when a child beneficiary is not allowed to use any life distribution rule. The IRS should conclude an estate must use the 5-year rule regardless of whether the deceased IRA owner died before or after their required beginning date.

In your current situation I don't see the benefit of using the life distribution rule. An annual distribution is required. The divisor for someone age 90 who dies in 2021 will be 5.7 using the 2022 RMD table. This means the divisor will be 4.7 for 2022. I am thinking the estate would want to use the 5-year rule rather than the special life distribution rule since there is no required distribution until the last year (12/31/2026).

Note that when the IRA owner dies in their 70's or low 80's with a beneficiary which is an estate of a non-qualified trust there may be a lengthy distribution period. For example, Ann Doe dies at age 76 in 2021 and she had designated her non-qualified trust to be her beneficiary. The initial divisor for 2021 would be 14.1 so the divisor for 2022 would be 13.1. The reduce by 1.0 applies.

The trust industry (tax attorneys, trust entities and trust department) are probably arguing for the IRS to keep this special rule. My statement that an estate or a non-qualified trust should never be the designated beneficiary will need to be modified if the IRS keeps this special life distribution rule. If the IRS is going to be nice, one probably should not complain or point out their “mistake!”

Q-3. I have a customer whose husband passed away in January of 2021 and he had not taken his RMD yet we then transferred over the money into an IRA for her (in April of 2021). She is needing to know if she has to take an RMD? She is 74 years old.

A-3. Yes, she must take his RMD to the extent he did not take it by 12/31/2021. It was permissible to transfer his entire IRA into hers as long as she takes the RMD by 12/31/2021.

She must take her own RMD for 2022 in 2022.

Q-4. We were just informed that our IRA client John Doe passed away in July. The beneficiary of the IRA is his Trust which is attached. It says the Successor Trustee is Trust Department of Northern Trust N.A. How do we make the check out? Who signs the Distribution form? Once we receive a copy of Death Certificate do we close the IRA and how do we title it?

Sorry for so many questions.

A-4. An IRA custodian/trustee is not required (or able) to close a person's IRA just because that person has died. A bank must be furnished certain instructions by the beneficiary(ies).

In this situation the beneficiary is his trust. Mr Doe's IRA is now an inherited IRA.

The trustee should furnish a copy of the death certificate to American Bank (AB), The trustee of the trust should instruct AB if the inherited IRA will remain at AB or whether it will be transferred to another IRA trustee.

AB wants to set up an inherited IRA. It would be titled “the John Doe Revocable trust as beneficiary of John Doe's IRA.” AB should make a distribution to the trustee

when the trustee has completed an IRA distribution form.

Had he taken his RMD for 2021? If not, the trust should withdraw the RMD by 12/31/2021.

Q-4A. How do we make the check out? Who signs the Distribution form? Once we receive a copy of Death Certificate do we close the IRA and how do we title it?

A-4A. To the trustee of the trust (Northern Trust). The deadline is 12/31/2021. The 2021 RMD is not required to be withdrawn immediately.

Q-5. The President of our Bank, would like to discuss an IRA situation and next steps.

IRA owner died in 2020. Beneficiaries are a nephew and niece.

Do we have to IRA transfer the money before 12/31/2021? Can we mail them a check for 50% each?

A-5. I expect these two non-spouse beneficiaries will be required to use the 10-year rule to close their respective inherited IRAs. Under the 10-year rule a beneficiary is required to close their inherited IRA by 12/31/2030. The beneficiary may take a distribution in 2021 or any year from 2022-2029, but that is not required. Again, the inherited IRA must be closed by 12/31/2030.

A beneficiary could decide to maintain their inherited IRA at your bank for the 10-year period. Unless these beneficiaries will transfer their funds to another financial institution before 12/31/2021 the bank will want to establish two inherited IRAs for these two beneficiaries. See our Form 40-Ti.

You should review our Form 206. I assume neither of the beneficiaries will qualify as an EDB (Eligible Designated Beneficiary).

You should furnish each beneficiary a Form 206 and a standard IRA distribution form (Form 57).

A beneficiary could transfer their inherited IRA to another financial institution. Any distribution made to a beneficiary is ineligible to be rolled over. The beneficiary is required to include any distribution in their

Inherited IRAs,
Continued from page 5

income for that year. A bank does not want to issue a distribution check to a beneficiary unless the beneficiary has requested that distribution in writing. There are special procedures to be followed if a bank wants to resign as the IRA custodian.

Email Guidance – RMDs for Living IRA Accountholders

Q-1. We have an IRA customer that is age 76 and opened up a new Traditional IRA with us on 4/27/2021 with a \$7,000 prior year contribution. This individual never had an IRA with us on 12/31/2020. Will this person be required to receive a 2021 IRA RMD before 12/31/2021? If so, how would the RMD be calculated?

A-1. No this person does not have an RMD with respect to that \$7,000 carry-back contribution for 2021.

We understand the IRS adopted an RMD calculation formula and intended to keep the RMD calculation simple. The 12/31 balance as of the preceding year is adjusted only by an outstanding rollover or transfer. It is not adjusted for contributions made after 12/31 even if made for the prior year.

It used to be there would be an adjustment if a conversion contribution was recharacterized. But the laws was changed that a conversion is irrevocable so it no longer can be recharacterized. The IRS rule has never required or allowed the 12/31 balance to be adjusted for an annual contribution which was recharacterized.

Q-2. One of the branches is having a hard time getting in touch with two IRA accountholders for their RMD. Does the bank get penalized as well as the client for not taking it?

A-2. Definitely not. The law imposes the 50% tax on an IRA accountholder or an IRA beneficiary who has an excess accumulation. There is no authority for the IRS to assess the 50% tax against the IRA custodian/trustee.

The 50% tax is owed when an individual or a nonperson beneficiary fails to withdraw an RMD by a deadline. The law uses the term excess accumulation.

I should have added. An IRA custodian was required to furnish an RMD notice in January of 2021. The bank did so. This meets IRS requirements and means the IRS would not be able to impose a \$50 fine for failing to furnish the required RMD notice.

Q-3. If a customer is age 72 and their sole primary beneficiary is their spouse who is 62 and is ten years and one month younger than him, are they eligible to use the Joint Life Table? If so, what would be the divisor?

A-3. The RMD formula for a living accountholder requires use of either the Uniform Lifetime Table of the Joint Life Expectancy Tables.

Regardless of whom or what is the IRA beneficiary, the Uniform Lifetime Table is to be used to determine the RMD divisor. There is one exception. The exception is - if the sole beneficiary is the IRA accountholder's spouse who is more than 10-younger, then the Joint Life Tables are to be used.

For purposes of the RMD formula the age of the IRA accountholder is determined as of December 31 of each year and the same is true for the spouse when the spouse is the sole beneficiary.

I know we and the IRS always discuss that the Joint Life table is to be used when the spouse is the sole beneficiary and is more than 10 years younger. However, as a practical matter the spouse must be at least 11 years younger in order for there to be a benefit (the divisor from the Joint Table is larger than the divisor from the Uniform Table).

When the beneficiary is 10 years younger (even if 10 years plus 364 days) , the divisor will be the same under both the Uniform Lifetime table and the Joint Table. There is only a difference (i.e. a benefit) when the spouse beneficiary is 11 years or more younger older than the IRA accountholder.

Excess HSA Contributions – 2021

Q1. If one of our customers over contributed to their HSA for 2021 already, how can we fix this to make sure they don't get a penalty at Tax time?

A-1. The customer needs to inform you that she or he made an excess and how much the excess was.

If the excess has not already been withdrawn, it needs to be withdrawn and it will get reported on Form 1099-SA. Your customer will get two Form 1099-SA forms - one showing the regular distributions (reason code 1) and one showing the withdrawal of the excess contribution (reason code 2).

It may be the customer already has withdrawn the funds and right now they have been coded as a regular distribution. They should have been withdrawn as the withdrawal of an excess. The coding would need to be changed to show an excess was withdrawn.

The customer needs to complete the HSA distribution form (57HSA) and possibly the Form 67 for HSAs.

The customer's Form 5498-SA will show the total amount contributed. The customer explains on their tax return that they corrected the situation by taking out the excess.

Duty to Correct an Excess HSA Contribution. This duty primarily belongs to the HSA owner and not the HSA custodian.

The HSA plan agreement does not require the HSA custodian to monitor contributions made for a person who has single HDHP coverage. The annual limit for a person under age 55 is \$3,600. Although not required by the IRS, many banks will do so as a customer service. Many HSA core systems as a customer service are designed to know if a person has single HDHP coverage or family HDHP coverage. Under IRS rules the bank is not required to know this fact.

The HSA plan agreement does require the HSA custodian to monitor the contribution limit of \$8,200 for 2021. That is, this is maximum contribution limit for a person who has family HDHP coverage and who is age 55 or older. The bank is not to accept contributions exceeding this limit. If it does it must be proactive in having the HSA owner correct the excess contribution situation.

CWF's Email Guidance – DOL Extends Temporary Relief With Respect to PTE 2020-02

The DOL on October 25, 2021, issued Field Assistance Bulletin No. 2021-02. It extends the compliance deadlines as set forth in prohibited transaction exemption (PTE) 2020-02.

The DOL has determined that it will not enforce the specific documentation and disclosure requirements for rollovers as set forth in PTE 2020-02 through June 30, 2022. That is, the DOL will start to enforce these rules on July 1, 2022 so a financial institution now has additional time to decide how it will comply with these new rules, if at all.

The DOL has stated it will enforce all other requirements of PTE 2020-02 as of February 1, 2022.

Note that this temporary relief only applies to an investment advice fiduciary who is working diligently and in good faith to comply with the Impartial Conduct Standards.

The DOL in this Field Assistance Bulletin No. 2020-02 does state that this guidance applies to financial institutions and/or investment advisers who want to rely on the relief granted by PTE 2020-02. Not every financial institution needs to rely on PTE 2020-02.

2022 Requirement,
Continued from page 1

Transition Rule #2. A special life distribution rule is to be used when the IRA accountholder dies after their required beginning date without a designated beneficiary (e.g. an estate or a non-qualified trust). This distribution period commences for calendar years following the year the IRA accountholder died. The distribution period depends on the age of the IRA accountholder in the year they died using the Single Life Table. The divisor for subsequent years is determined by subtracting 1.0 for each subsequent year. In essence this divisor is the remaining life expectancy of the deceased IRA accountholder. Under the transition rule, the initial divisor (i.e. the initial life expectancy) is reset by using the divisor from the new Single Life Table for the initial year. Then, that reset divisor is determined by subtracting 1.0 for each subsequent year. This reset procedure applies to RMD calculations for 2022 and subsequent years.

Note, the IRS has stated the 5-year rule does not apply to a beneficiary which is not a person when the IRA accountholder has died after their required beginning date. This special transition can mean the distribution period will be substantially longer than 5 years. In fact in some situations it can be more than 10 years.

The IRS furnishes the following example on page 12 of the 2020 version of IRA Publication 590-B Distributions. Note the 1.0 reduction method will apply.

Example. The owner died in 2020 at the age of 80, and the owner's traditional IRA went to his estate. The account balance at the end of 2020 was \$100,000. In 2021, the required minimum distribution would be \$10,870 ($\$100,000 \div 9.2$ (the owner's life expectancy in the year of death 10.2, reduced by 1)).

Here is another CWF example. The IRA owner died in 2020 at age 73, and the owner's traditional IRA went to his estate or a non-qualified trust. The applicable divisors would be:

Original RMD Schedule			Reset RMD Schedule		
2020	14.8	not used	16.4	not used	
2021	13.8	used	15.4	not used	
2022	12.8	not used	14.4	used	
2023			13.4		
2024			12.4		
2025			11.4		
2026			10.4		
continues					

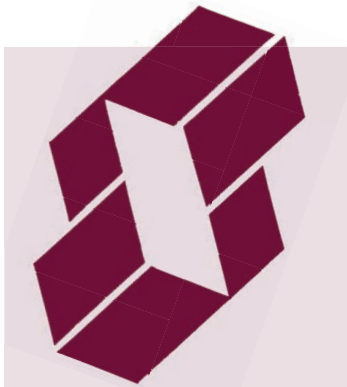
Query. Is it now possible that Jane Doe can achieve a longer distribution period by naming her revocable trust or her estate as her IRA beneficiary rather than designating her children directly? For example, she designates her revocable trust as her IRA beneficiary. Under her trust her three children are to get a 1/3 share of the inherited IRA funds. Her trust expressly authorizes the trustee of the trust to establish an inherited IRA for each child and then authorizes a pass-through to each child the right to withdraw their share of the inherited IRA. This means the distribution period will be 16.4 years rather than the 10-year rule.

Transition Rule #3. A special life distribution rule is to be used when the IRA accountholder dies after their required beginning date and the deceased IRA accountholder is younger than their designated IRA beneficiary.

This distribution period commences for calendar years following the year the IRA accountholder died. The distribution period is not based on the age of the beneficiary. The distribution period depends on the age of the deceased IRA accountholder in the year they died using the Single Life Table. The divisor for subsequent years is determined by subtracting 1.0 for each subsequent year. In essence this divisor is the remaining life expectancy of the deceased IRA accountholder. Under the transition rule, the initial divisor (i.e. the initial life expectancy) is reset by using the divisor from the new Single Life Table for the initial year. Then, that reset divisor is determined by subtracting 1.0 for each subsequent year. This reset procedure applies to RMD calculations for 2022 and subsequent years.

Upcoming 2022 IRA Furnishing & Filing Deadlines for 2021 Reporting

FMV IRA Statement to IRA Owners and Beneficiaries	1/31/2022
Form 1099-R IRA Distributions to IRA Owners and Beneficiaries	1/31/2022
Form 1099-R IRA Distributions to IRS If File on Paper	2/28/2022
Form 1099-R IRA Distributions to IRS If File Electronically	3/31/2022
RMD Notice to IRA Owners Age 72 or Older in 2021	1/31/2022
Form 5498 (IRA Contributions to IRA Owners and Beneficiaries)	5/31/2022
Form 5498 (IRA Contributions to IRS)	5/31/2022



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Final Review 2021 Form 5498

2021 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-0747		IRA Contribution Information
		2021		
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)	Form 5498	
		2 Rollover contributions		
		3 Roth IRA conversion amount	4 Reclassified contributions	Copy A
TRUSTEE'S or ISSUER'S TIN		5 FMV of account	6 Life insurance cost included in box 1	
PARTICIPANT'S TIN		7 IRA <input type="checkbox"/> SEP <input type="checkbox"/> SIMPLE <input type="checkbox"/> Roth IRA <input type="checkbox"/>	9 SIMPLE contributions	For Internal Revenue Service Center File with Form 1096.
PARTICIPANT'S name		8 SEP contributions	10 Roth IRA contributions	
Street address (including apt. no.)		11 Check if RMD for 2022 <input type="checkbox"/>	12a RMD date	For Privacy Act and Paperwork Reduction Act Notice, see the 2021 General Instructions for Certain Information Returns.
City or town, state or province, country, and ZIP or foreign postal code		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. 50010C www.irs.gov/Form5498 Department of the Treasury - Internal Revenue Service

Deadlines to Furnish

The due dates for the 2021 Form 5498 are: furnish copy B to the IRA accountholder by May 31, 2022 and file Copy A with the IRS also by May 31, 2022. If you file electronically, you must comply with the filing specifications set forth in Publication 1220.

What's New For 2021? Form 5498

New repayment code. The IRS has added code “BA” for reporting a repayment of a qualified birth or adoption distribution. See the instructions for Box 14a. Repayments and Box 14b. Code, later.

Account Number

1. On the bottom left there is an

“Account Number” box. The IRA custodian is required to insert an account number in this box when filing more than one Form 5498 for the same person. If your institution wants to earn some bonus points with the IRS, you will complete this box even though it is not required. IRS instructions state the account number must be unique. This instruction that this number must be unique can be confusing. It must be unique with respect to this particular IRA account older. If a person has 3 IRAs each one must have an account number which is different. The account numbers could be 01, 02 and 03. The purpose of the account number is to identify which Form 5498 is being

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Continued from page 1**

corrected when there have been multiple 5498 forms prepared for a person and a correction is now being submitted to IRS. It is best if the account number is not based on the person's SSN.

2. In Box 7 only one of the 4 boxes must be checked to indicate the type of IRA. A person who has a traditional IRA, SEP IRA and Roth IRA would need to be furnished three 5498 forms.

Contribution Amounts

3. **Box 1. IRA Contributions** (other than amounts in boxes 2-4, 8-10, 13a and 14a). Enter the amount of the annual contributions made on or after January 1, 2021 through April 18, 2022 as designated for 2021. The IRA custodian is to report the gross amount of the annual contributions even if such contributions are excess contributions, or will be later recharacterized. A traditional IRA contribution, which is not properly reported in one of the other traditional IRA boxes as discussed below, is to be reported in box 1. For example, if a person tries to roll over \$28,000, but does so on day 70 and does not furnish a late rollover certification and the IRA custodian learns of this fact prior to filing the current year's Form 5498, then the IRA custodian must report this \$28,000 in box 1. This same procedure would apply if somehow non-IRA funds had been mistakenly transferred into an IRA. If an excess contribution is treated as a contribution in a subsequent year under section 219(f)(6), do not report it on Form 5498 for the subsequent year. It has already been reported as a contribution on Form 5498 for the year it was actually contributed.

4. **Box 2. Rollover Contributions.** Enter the amount of the rollover contributions made on or after January 1, 2021 through December 31, 2021. Made means received by the traditional IRA custodian.

A late rollover contribution made pursuant to a late rollover certification is reported in box 13a and not box 2.

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

A direct rollover occurs when an employer plan issues the check to the IRA custodian on behalf of the individual. By definition, a direct rollover can-

not occur between IRAs. Employer plan means a qualified plan, section 403(b) plan or a governmental section 457(b) plan. The funds attributable to a nonspouse beneficiary of such plans are eligible to be directly rollover to an inherited IRA and would be reported in Box 2.

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

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

These contributions may be any of the following.

- A 60-day rollover between Roth IRAs or between other types of IRAs.
- A direct or indirect (within 60 days) rollover from a qualified plan, section 403(b) plan, or governmental section 457(b) plan.
- Any qualified rollover contribution as defined in section 408A(e) from an eligible retirement plan (other than an IRA) to a Roth IRA.
- A military death gratuity.
- An SGLI payment.

For the rollover of property, enter the FMV of the property on the date you receive it. This value may be different from the value of the property on the date it was distributed to the participant.

5. **Box 3. Roth IRA Conversion Amount.** This box will be completed when a conversion contribution is made to a Roth IRA from a traditional IRA, SEP-IRA or SIMPLE-IRA. Do not include the rollover of non-Designated Roth funds from a 401(k) or similar plan into a Roth IRA. Such rollover contributions are to be reported in box 2.

6. **Box 4. Recharacterized Contributions.** The IRS instructions are very brief, "Enter any amounts recharacterized plus earnings from one type of IRA

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to another.” If a person had made an annual contribution he or she may elect to recharacterize it as adjusted by earnings or losses. The total amount recharacterized is to be reported in box 4. Although the IRS instructions use the term, “plus earnings, the IRS should use the term, “plus or minus earnings or losses.”

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

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

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

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

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

If the IRA custodian does not learn of the individual's death until after the filing deadline for the Form 5498 (i.e May 31), then it is not required to

prepare a corrected Form 5498. However, an IRA custodian must still furnish the FMV as of the date of death if requested to do so.

8. **Box 6. Life Insurance cost included in box 1.** An IRA custodian will leave this box blank or will insert a 0.00 since it is only to be completed if there was a contribution to an IRA endowment contract as sold by an insurance company a long time ago.
9. **Box 8. SEP Contributions.** Any SEP contributions made to the IRA custodian during 2021 are to be reported in box 8. Such contributions could have been for 2020 or 2021. Contributions made in 2022 for 2021 are to be reported on the 2022 Form 5498.
10. **Box 9. SIMPLE Contributions.** Any SIMPLE-IRA contributions made during 2021 are to be reported in box 9. Such contribution could have been for 2020 or 2021. Contributions made in 2022 for 2021 are to be reported on the 2022 Form 5498.
11. **Box 10. Roth IRA Contributions.** Any Roth IRA contributions for 2021 are to be reported in box 10 as long as made between January 1, 2021 and April 18, 2022.
12. **Box 11. Check if RMD for 2022.** An IRA custodian is required to check this box if the traditional IRA SEP-IRA or SIMPLE-IRA accountholder attains or would attain age 72 or older during 2022. The instructions do not discuss whether or not this box is to be checked for an inheriting traditional IRA beneficiary. It should not be checked for an inherited IRA. Completing this box is necessary only if the IRA custodian is required to prepare a 2021 Form 5498 for a person. This box is not checked with respect to an individual who died during 2021 and who would have attained age 72 or older during 2021 had he or she lived.
13. **Boxes 12a (RMD date) and 12b (RMD Amount).** An IRA custodian's use of these two boxes is optional, it is not mandatory.

Under current IRS procedures, the IRS does not require the traditional IRA custodian to furnish it with the RMD amount. The law is unsettled whether or not the IRS has the legal authority to require that an IRA custodian furnish the RMD amount. Since

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the IRS would like to be furnished this information, the IRS has added boxes 12a and 12b to the Form 5498.

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

14. Box 13a. Postponed contributions and late rollover contributions. Our federal tax laws are complicated and the reporting of certain special IRA contributions is 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.

2021 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-0747	
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)	2021 Form 5498 IRA Contribution Information
		2 Rollover contributions	
TRUSTEE'S or ISSUER'S TIN		3 Roth IRA conversion amount	4 Recharacterized contributions
PARTICIPANT'S TIN		5 FMV of account	
PARTICIPANT'S name		6 Life insurance cost included in box 1	Copy A For Internal Revenue Service Center File with Form 1099.
Street address (including apt. no.)		7 IRA <input type="checkbox"/> SEP <input type="checkbox"/> SIMPLE <input type="checkbox"/> Roth IRA <input type="checkbox"/>	
City or town, state or province, country, and ZIP or foreign postal code		8 SEP contributions	9 SIMPLE contributions
		10 Roth IRA contributions	
		11 Check if RMD for 2022 <input type="checkbox"/>	For Privacy Act and Paperwork Reduction Act Notice, see the 2021 General Instructions for Certain Information Returns.
		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)

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 late rollovers.

Some IRA owners are entitled to make an IRA contribution for a prior year in addition to make a cur-

rent 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.

Box 13a. This is titled Postponed/late Contribution in the 2019-2021 instructions. The IRS should change the title to somehow make clear it is a 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.

Unless the IRS has issued special guidance, there cannot be two late rollover contributions in the same year because of the once per year rollover rule. 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 and subsequent years 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 if a postponed contribution.

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

Note that 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.

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Continued from page 4

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.

15. Box 14 reports repayment contributions.

A person can make three types of repayments, a repayment of a qualified reservist distribution, a designated disaster distribution or related to a qualified birth or adoption 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.

Enter BA for the repayment of a qualified birth or adoption 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 the following 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).

Electronic filers. You may request an automatic waiver from filing Forms 5498 for combat zone participants by submitting Form 8508, Request for Waiver From Filing Information Returns Electronically. Once you have received the waiver, you may report all Forms 5498 for combat zone participants on paper. Alternatively, you may report contributions made by the normal contribution due date electronically and report the contributions made after the normal contribution due date on paper. You also may report prior year contributions by combat zone participants on a corrected Form 5498 electronically or on paper.

16. Box 15a. FMV of certain specified assets. Completion of Boxes 15a and 15b is mandatory for 2021 and subsequent years. If you are an IRA custodian or trustee with IRA assets of which the fair market values are not readily determinable, you should review the following.

Box 15a is titled FMV of certain specified assets.

Box 15b will be used to furnish info on the type of the investment. It is titled "Codes."

The IRS has developed an administrative approach

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so that it can better administer IRAs that hold non-market assets. Such IRAs may either be trust IRAs or self-directed custodial IRAs. It appears the IRS will choose to audit more IRAs holding non-market assets than those holding only market assets. Without a doubt, it is more likely that prohibited transactions occur with respect to IRAs holding non-market assets than market assets.

Box 5 will still be used to report the FMV of the entire IRA. The total FMV will equal the FMV of the easy to value assets plus the FMV of the hard to value assets. An asset where there is a readily available market to determine an asset's value is an easy to value asset. When there is no readily available market to be used to determine an asset, this is a hard to value asset. It is also known as a non-market asset.

Box 15a will be used to report the FMV of all of the non-market assets. These are the assets which are not readily tradable on an established U.S. or foreign securities market or option exchange or that do not have a readily available FMV. The IRS does not define what is meant by "does not have a readily available FMV." As for box 5, the IRS states that the FMV must be determined annually. The amount in box 15a may be the same as in box 5, but most likely will be less as will be the case when there are both easy to value and hard to value assets in the same IRA.

The FMV of the "market" assets may be determined by subtracting the FMV of the non-market assets (box 15a) from box 5.

In box 15b, one or two letter codes must be inserted to identify the type or types of the non-market investment. If only one code applies, insert that one code. If only two codes apply, then insert both codes. However, if more than two codes apply, then enter a Code H. Code H means there are more than two non-market assets held in the IRA. From the perspective of the IRA accountholder, he or she may prefer to have at least three hard to value assets rather than just one or two because when an "H" is used the IRS does not know specifically what assets are owned and would need to obtain this information from additional communications with presumably the IRA accountholder.

There are 7 identifying codes:

- A – Stock or other ownership interest in a corporation that is not readily tradable on an established U.S. or foreign securities market.
- B – Short or long-term debt obligation that is not traded on an established securities market.
- C – Ownership interest in a limited company or similar entity (unless the entity is traded on an established U.S. or foreign securities market).
- D – Real Estate
- E – Ownership interest in a partnership, trust, or similar entity (unless the entity is traded on an established U.S. or foreign securities market).
- F – Option contract or similar product that is not offered for trade on an established U.S. option exchange or established foreign option exchange.
- G – Other asset (i.e. not described in A-F) that does not have a readily available FMV.
- H – More than two types of assets (listed A through G are held in this IRA).

In summary, the IRS requires an IRA custodian/trustee to furnish certain information regarding hard to value assets. The IRS will presumably use this information to determine if it wishes to gather additional information. The deadline to furnish the 2018 Form 5498 to the individual and the IRS is Friday, May 31, 2019. The IRA custodian/trustee wants to know what it has prepared as many 5498 forms as the rules require and that each form has been prepared correctly.

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

Inherited IRA Reporting – Form 5498 and FMV Statement

This article discusses the proper reporting for Inherited IRAs.

IRS Revenue Procedure 89-52, a required procedure since 1989, dictates how an IRA Custodian/Trustee is to report IRAs once the IRA Accountholder has died. The procedure has not changed since 1989, and is to be used as soon as the IRA Custodian/Trustee knows of the death of the IRA Accountholder! Knowledge of death means anywhere in your financial institution. If the checking account department, the loan department, or the safety deposit vault department knew of the death but the IRA department did not, that is a lack of communication, NOT a lack of knowledge!

There are two aspects to complying with this procedure: One for the reporting for the deceased IRA Accountholder; the other for the reporting to the beneficiary.

The usual comment we hear is “The beneficiary has not come in” or “The beneficiary has not done anything with the IRA.” Neither one of these comments has anything to do with your required reporting if there is knowledge the IRA owner has died. The IRS’ position is that the IRA becomes an Inherited IRA owned by the beneficiary at the moment of death. And, the IRA Custodian/Trustee must report it accordingly. This applies to all beneficiary situations, spouse or nonspouse.

Reporting for the Deceased IRA Accountholder

For the year of death, there is required reporting for the decedent.

A year-end Fair Market Value (FMV) statement must be produced in the name and Social Security Number (SSN) of the deceased IRA Accountholder. The FMV that is reported is either the FMV as of the date of death, or zero. It is never the actual December 31 FMV unless the IRA Accountholder died on December 31. If the zero balance option is reported, the availability of the FMV on the date of death must be disclosed to the decedent’s representative on both the FMV statement and in the instructions to the participant for Form 5498.

The IRS Form 5498 for the year of death must also be

prepared in the name and SSN of the decedent, showing the FMV as was reported in the FMV statement at the end of the year. (All other reports for the decedent for IRA transactions completed before the death are, of course, also reported.)

These are the last reports/statements/ forms prepared in the name and SSN of the deceased, whether the beneficiaries address the situation or not. But the responsibilities of the IRA Custodian/ Trustee are just beginning because it also has reporting requirements for each Inherited IRA beneficiary starting with the year of death. It makes no difference that a beneficiary has not contacted the custodian/trustee. The reporting requirements are the financial institution’s as soon as it knows of the death.

Reporting for the Inherited IRA/Beneficiary

Beginning in the year of death, the FMV of the Inherited IRA as of December 31 must be reported to each beneficiary. Each beneficiary must receive the statement showing their share of the December 31 FMV. This applies for all beneficiaries including spouses, non-spouses, trusts, estates, charities, foundations, etc. It is their Inherited IRA balance and it must be reported separately. It is reported in the name and SSN or TIN of the beneficiary, noted as beneficiary of the decedent. For instance,

ABC Financial Institution for the benefit of Jane Doe as beneficiary of Mary Doe’s traditional IRA.

The SSN of the deceased can never be used for reporting to any beneficiary, including estates and trusts. IRS Form 5498 is also required for each beneficiary, reporting the FMV as was reported in their year-end FMV statement.

This reporting procedure for the beneficiary is required for each subsequent year there is a balance in the inherited IRA as of December 31. Of course, distributions to a beneficiary will be reported on Form 1099-R.

Common Consulting Call Question

The IRA accountholder died in 2021, the financial institution knew of the death, and the beneficiaries are

Reporting,
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just coming into the office now, April 2022. The IRA is still in the name and SSN of the deceased. What do we do?

IRS Rev. Proc. 89-52 requires that the reporting procedures be complied with. The year-end FMV statements must be corrected and the Form 5498s must be prepared correctly as described above. It was an Inherited IRA in 2021 and must be reported as such, even if the beneficiary is the spouse and the spouse now intends to treat it as his or her own IRA in 2010.

What if the IRA custodian did not know of the IRA Accountholder's death?

Obviously, if you do not know of the death, the reporting can not be done. But it does make a difference when you find out about the death. If you learn of the death before February 1 of the year after the death, even if your FMV Statements are already sent, this procedure applies. Any FMV Statement already sent would need to be corrected.

If you learn of the death between February 1 and May 31, the FMV Statement does not need to be amended, but likely should be because the Form 5498 procedure as described above must be complied with. So that your Form 5498 and your year end statement balance agree, you likely will want to correct the December 31 FMV.

If you learn of the death after May 31, neither the FMV Statement nor the Form 5498 for the year of death needs to be corrected. However, all future reports and statements must be prepared in a complying fashion. And, the FMV on the date of death must be made available to the decedent's representative if so requested.

Conclusion

This is a fairly complicated and administratively heavy procedure and we have heard that some systems do not make it easy to do the mandated reporting correctly. Never the less, it is required. IRS penalties on the financial institution for non-complying reporting can be severe, and can be assessed as far back as the IRS cares to go. You will get little understanding from the IRS for not complying with a 1989 required procedure.

If you have any questions concerning this complicated and required procedure, please contact our Consulting Department.

Reporting 2021 RMDs for Beneficiaries on the 2021 Form 5498

The IRS policy regarding IRA beneficiaries and RMD reporting since 2002/2003 has been that an IRA custodian is NOT required to report the RMDs for inherited/beneficiary IRAs. The IRS for many years has furnished instructions for the IRA custodian to complete and furnish Forms 1099-R and 5498. Discussion of RMDs starts on the bottom of page 18. On page 18 of the 2021 Instructions for Forms 1099-R and 5498 the IRS states, "Until further guidance is issued, no reporting is required for IRAs of deceased participants (except where the surviving spouse elects to treat the IRA as the spouse's own, as described above)." The IRS has not adopted any further guidance.

No reporting means that box 11 is not required to be checked for a beneficiary. Because of this rule, the IRS has also adopted the policy that the IRA custodian is not required to furnish an inheriting IRA beneficiary with an RMD Notice as it must to living accountholders. Some IRA custodians have asked "even though the IRA custodian is not required to furnish this RMD information on the Form 5498 to either the IRS or the beneficiary, may we choose to do so?" With respect to furnishing a Form 5498 for a beneficiary to the IRS with box 11 being checked, we at CWF believe the conservative answer is to not do so. Privacy is a very important subject. Some people are litigious. If the IRS does not require this information be furnished to the IRS, we expect that most beneficiaries would choose to not have it furnished to the IRS.

If an IRA custodian would choose to voluntarily furnish this information to the IRS, such IRA custodian will want to determine if its IRA plan agreement authorizes such action. We would be surprised if the IRA plan agreement authorizes the IRA custodian to send information to the IRS which is not required.

With respect to furnishing a Form 5498 for a beneficiary to the beneficiary with box 11 being checked, this will be unnecessary if the IRA custodian has followed CWF's advice and furnished an RMD Notice to the beneficiary in January. As mentioned previously, the IRA custodian presently has no duty to furnish an RMD Notice to a beneficiary. An IRA custodian may furnish this RMD information to the beneficiary more than once.

Email Guidance – Inherited IRAs

Q-1. Grandmother passed away In October 2021. She was 90. Her beneficiaries are her granddaughters. Grandmother had not taken her RMD yet. The granddaughters aren't coming in. Do I just send them each a check for their share and then wait till next year to divide whats left?

Their RMD share would be 658.17. Their portion of IRA would be 7602.42 each.

And how do I code them, just death benefit. ??

A-1. I see two likely courses of action.

1. The first is the action you suggest - make a distribution to each beneficiary for \$658.17.

2. You can inform them that if they don't withdraw the \$658.17 by 12/31/21 that each technically owes the 50% tax or \$329.09 unless the IRS would agree to waive the 50% tax because equity and fairness requires it. I'm not sure the IRS would agree that due to the death occurring so late in the year(???) that the withdrawal by 12/31/21 was unreasonable. If a beneficiary misses an RMD deadline, the beneficiary must file Form 5329 and complete Part IX informing the IRS the beneficiary had missed taking the RMD.

I suggest what you suggest. Set up the 2 inherited IRAs and pay each beneficiary the \$658.17 before year end.

As for the remaining balance each beneficiary will be using the 10-year rule. There is no specific RMD for 2022-2030, but the inherited IRA must be closed by 12/31/2031. The general tax rule is - the beneficiary must include in their income any amount withdrawn during that year.

Q-1A. If I remember correctly. I would take their RMD out first and then the remaining money be divided and new IRA's would be made unless they want to cash them all in.

A-1A. I'm not sure what you mean by first taking out thier RMD amount for 2021. Each beneficiary is to receive their own Form 1099-R. Each beneficiary will receive or inherit 50%. There is no requirement that their share of the 2021 RMD needs to be withdrawn

first. The entire inherited balance may be transferred into the inherited IRA and then each beneficiary may take their share of 2021 RMD or the beneficiary may take out more.

Email Guidance – CRP Contract as an IRA Investment

Q-2. Mike, age 55, has a \$463,000 self-directed IRA to which FB is custodian.

Mike directed the purchase of 160 acres of farmland from his IRA to which we complied.

After the purchase and receiving the deed, Mike informed us that we need to bring the recorded deed to our local FSA office to change the CRP contract to the IRA name.

The person handling CRP contracts has never put a non-individual as owner of a contract and seems to think that it won't be allowed but really has no basis for that opinion.

We understand this is a gray area and we've done our due diligence as far as making sure we are only custodian of his IRA and making sure he signs off on all investment directives.

Have you ever seen a governmental contract such as CRP payment being paid to an IRA? Do you have any knowledge if this would be prohibited?

A-2. There is no IRA law prohibiting this investment (a CRP contract) as an IRA investment.

Further research would be needed to see if there are any "farming" laws or regulations prohibiting an owner (which is an IRA) from participating in the CRP program. One would think the public policy does not change because the owner is an IRA. I would want to review a written explanation if the explanation came back that the IRA is ineligible to participate in the CRP program.

Email Guidance – HSAs

Q-1. We have a customer that wants to open an HSA for 2022. Can we do that now (December 27) or do we need to wait until after the new year?

A-1. You must wait in the sense that the deposit/contribution must be processed in 2022. It can't be processed this week. The paper work (HSA plan agreement) could be signed now.

Is there a way for the bank to hold the funds in a holding account or can you just inform the person you will hold their check until it is 2022. Any HSA contribution made now must be processed for tax year 2021.

Q-2. We have a customer who has an HSA and he has named his 2 sisters as beneficiaries. The account owner died in 2021, but the distributions to the beneficiaries will not be made until 2022. The bank president asked me to find out how this will be reported for income tax purposes, since the account will accrue interest in the meantime, (the DOD value will be different from the actual amount distributed).

This same customer also has a self-directed IRA. We wanted to know how this will be reported for income tax purposes since the value of the account at distribution could be much greater or much less than the DOD value.

A-2. As you know HSAs and IRAs have important tax differences.

When the HSA owner dies the HSA ceases to exist when the beneficiary is not the spouse. Neither the beneficiaries nor the bank is required to rush to close the HSA.

A beneficiary is required to include in their 2021 income their inherited share regardless of when they withdraw their share. In your customer's situation the withdrawal will occur in 2022. The bank should be nice and inform the beneficiaries that they are required to include in their 2021 income their inherited share regardless of when they withdraw their share. Because the distribution will occur in 2022 the bank will report

this distribution on the 2022 Form 1099-SA which is furnished in January of 2023.

The HSA rule is - any income earned after the date of death is to be included in income for the year withdrawn. This will be 2022.

So, the 2022 Form 1099-SA will show a gross amount in box 1 and the value as of the date of death in box 4 and the reason code will be a 6 since the distribution is occurring in 2022 and not 2021. The reason code 6 means - the recipient needed to include this distribution in their 2021 tax return.

The IRA distribution and taxation rules are much different. Taxation only occurs when there is a distribution. That is, the withdrawn amount must be included in income.

There is no special IRS reporting of the change in value between date of death and withdrawal. It is the amount (FMV) at time of distribution which is critical and important. If an asset will increase in value in the future, a person might want to withdraw that the increase in the value of that asset in the future would receive capital gain treatment rather than ordinary income treatment. A distribution from an IRA is always treated as ordinary income.

There is no requirement to close immediately an inherited IRA. A person (IRA account holder or beneficiary) must include in their income the amount withdrawn that year. Most people would not want a lump sum distribution because the entire amount is taxable unless the decedent would have had basis (non-taxable) within an IRA.

I believe the sisters will be an EDB under the new RMD rules. Each beneficiary will have the right to elect to use either the life distribution rule or the 10-year thereby stretching out distributions and taxation over a number of years. See our Form 206. Any earnings of the IRA are tax deferred until withdrawn. In my opinion there is little reason to withdraw IRA funds before one is required because with the inherited IRA there is continued tax deferral whereas if one takes the funds and then reinvests them there will be taxes owing immediately on future earnings.

HSA's
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Q-3. We have an HSA where the client never completed signing our new account documents. The place they worked for sent us all their information and we opened the account but was never able to get the signed documents. This person has since left that job and after many attempts we get no response back. We want to close the account out and mail him a check. Are we in our rights to do that? I know it would code the withdrawal as a distribution and he would get a 1099. Or is there another way to code it so it doesn't go as a distribution?

A-3. The bank has some business decisions to make. As you already know the bank wants to do what it can to prevent this situation from occurring again. But it has occurred.

When was the account opened? Did he withdraw any of the funds? When were contributions made? What amount of money is in the HSA?

What actions has the bank taken to try to find this person? I have not researched the question whether an employer has the authority to establish an employee's HSA. I would assume the employer has been given this authority. For purposes of this email I assume the employer has this authority.

Is the bank permitted to treat the account as an HSA?

Even so, the employer did not execute any HSA plan agreement documents.

You must review your standard HSA form. I assume it gives the bank the trustee the right to resign as the custodian if proper notice is given.

As a general rule the bank should not issue a check to your customer unless he or she has requested it. The person might have some adverse tax consequences. Unless rolled over or unless used to pay qualified medical expense, a person must include the amount in income and pay the related tax and the person will owe the 20% penalty tax unless age 65.

Q-4. We have had several new HSA accounts opened at the bank this week, each seem to have their own unique situation. We have had several conversations with customer's making sure that they are eligible and have a qualifying HDHP.

That brings me to my question... One of the customers would like to transfer or rollover funds from a previous HSA account to our bank. She is no longer covered under a qualifying HDHP so is not eligible to make any contributions and would not normally be eligible to open an HSA account. However, is she eligible to open an HSA with a transfer contribution?

A-4. That is sufficient. A person is eligible to make a rollover HSA contribution or an HSA transfer contribution even though she is ineligible to now make an annual contribution because she no longer has HDHP coverage.

The IRS should improve its discussion of this situation - what are the eligibility requirements to establish an HSA? A person establishes their first HSA by making an annual contribution. In order to make that annual contribution a person must be covered at that time by a HDHP.

Email Guidance – RMD for 2021

Q-1. We had a customer at one of our branches ask if they could wait until January of 2022 to take their 2021 RMD, but claim it on this year's tax return? I told them I would ask, but from what I knew it has to be by December 31, 2021.

A-1. You are correct. A person who attains age 72 in 2021 is not required to withdraw that amount by 12/31/21. The law provides a special deadline for the first RMD. It may be withdrawn by April 1 of the following year.

However, the general tax rule still applies - a person includes in their income the amount of any distribution which occurred during that year. So a person who waits to take their 2021 RMD in 2022 and who takes their 2022 RMD by 12/31/22 will have to include in their 2022 income the combined amount.