THE Pension Digest

May 2024
Published Since 1984

ALSO IN THIS ISSUE – -

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

The DOL Adopts Its Final Regulations For Definition of an Investment Advice Fiduciary And PTE Exemption 2020-02

The Department of Labor (DOL) issued on April 26, 2024 its new regulation defining who is an investment advice fiduciary. The final fiduciary regulation is effective as of September 23, 2024. The DOL has stated that it is primarily concerned with voluntary compliance so it will not be aggressive in any enforcement actions for the period of September 23, 2024 to September 22, 2025.

The DOL has written its final regulation so that every rollover or transfer transaction involves a fiduciary act by the financial institutions involved in the transactions. Moving funds from a retirement plan to an IRA is a fiduciary act as is the moving of funds from one IRA to another IRA.

The DOL also defines what a fiduciary needs to do in any rollover or transfer transaction. Regardless of what the customer (retirement investor) wants or expects, the IRA custodian is required to perform certain tasks. The DOL's position is - not performing these tasks is a prohibited transaction for which the DOL may impose penalties. However, an IRA custodian's compliance with PTE 2020-02 means there will be no penalties imposed.

The DOL has set forth in the final regulation that it has the authority to impose Title I penalties and/or Title II penalties against an IRA custodian unless it has determined that the best interests of the retirement investor will be met. An IRA custodian must meet its duties of loyalty and care with respect to the customer or client.

As a practical matter, this should not be that difficult when the individual has made the decision to rollover the IRA or transfer funds to your institution.

When IRAs are involved the DOL has little authority it can cite as to why it has the authority to define that any rollover or transaction is a fiduciary act. Congress has not written the laws as the DOL wants them to be written.

We at CWF have expressed our belief that the DOL is overreaching. We still believe this. The DOL argues that Congress has clearly given it the authority to regulate rollovers and transfers of both retirement plan to IRA rollovers and IRA to IRA rollovers. We believe the law is clear - the DOL has been given only limited authority, if any, regarding IRA to IRA rollovers and transfers.

Litigation against the DOL has already commenced. There will be additional litigation.

An IRA custodian/trustee should adopt rules and procedures before September 23, 2024 so that it can demonstrate to the DOL or any other regulator that its procedures are in compliance with the requirements of the amended PTE 2020-02.

We set forth on our IRA System the forms which may be used to show your compliance with the requirements of this new final regulation. Ultimately we expect the courts will rule that the DOL has exceeded its authority.

Compliance With PTE 2020-02

Requirements to be met by a financial institution if it uses PTE 2020-02.

- acknowledge their fiduciary status in writing to the Retirement Investor;
- disclose their services and material conflicts of interest to the Retirement Investor;
- adhere to Impartial Conduct Standards requiring them to:
  - ➢ investigate and evaluate investments, provide advice, and exercise sound judgment in the same way that knowledgeable and impartial professionals would in similar circumstances (the Care Obligation);
  - ➢ never place their own interests ahead of the Retirement Investor's interest, or subordinate the Retirement Investor's interests to their own (the Loyalty Obligation);
  - ➢ charge no more than reasonable compensation and, if applicable, comply with Federal securities laws regarding "best execution"; and
  - ➢ avoid making misleading statements about investment transactions and other relevant matters;
- adopt firm-level policies and procedures prudently designed to ensure compliance with the Impartial Conduct Standards and mitigate conflicts of interest that could otherwise cause violations of those standards;
- document and disclose the specific reasons for any rollover recommendations; and
- conduct an annual retrospective compliance review.

The DOL originally used the term best interest in its proposed PTE 2020-02. A financial institution had the duty to act in the best interest of a retirement investor. The DOL decided to replace the best interest term with its two sub-components of common trust law- the duty of care and the duty of loyalty. The DOL uses the term obligation whereas CWF is using the term duty.

Both of these duties (care and loyalty) must be met when an adviser provides investment advice.

The care duty is met when the advice reflects the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims, based on the investment objectives, risk tolerance, financial circumstances and needs of the retirement investor.

The loyalty duty is met when the adviser does not place its own financial or other interests ahead of the interest of the retirement investor. Any advice is to be based on the financial interests of the retirement investor. This determination must be based on a long period of time versus a short period. An adviser is entitled to receive reasonable compensation as long as that compensation is fairly disclosed.

Requirement - Acknowledge By Adviser That It Is a Fiduciary

At or before the time of the covered transaction, the adviser must provide to the retirement investor a written acknowledgment that it is a fiduciary and that it has the duties of loyalty and care.

PTE 2020-02 does not require that the adviser have a formal contract. It may use such a contract but that is not required by the final PTE 2020-02.

Requirement - Furnish Disclosure of Services and Fees

The retirement investor must be furnished by the adviser a written disclosure. A retirement investor has the right to have a clear understanding of what services will be performed by the adviser, what will be the fees and if the adviser has any conflicts of interest. In order for the retirement investor to make a fully informed decision he or she must be presented this information,

At the present time the DOL does not require that this disclosure be set forth on the adviser's website.

Requirement - No Materially Misleading Statements

Again, the final requirement is the same as in the proposed PTE 2020-02. A retirement investor has the right to expect that an adviser will not make any material misstatements or omissions.

Requirement - Reasonable Compensation.

In general, the final requirement is the same as in the proposed PTE 2020-02 requirement,

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PTE 2020-02 Compliance,
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Compensation must be reasonable and it cannot be excessive. The market determines what compensation is reasonable. One must determine the value of all the services and benefits being made available by the adviser.

Requirement - No Materially Misleading Statements

Again, the final requirement is the same as in the proposed PTE 2020-02. A retirement investor has the right to expect that an adviser will not make any material misstatements or omissions.

Requirement - Furnish Disclosure Explaining the Relationship and Any Conflicts

The adviser must disclose to the retirement investor all material facts relating to the scope and terms of the relationship. The transactions, holdings and accounts of the retirement investor need to be discussed as do the related fees. An explanation must be furnished if the services will for some reason be limited. An explanation must be furnished of all materials facts relating to any possible conflicts of interest of the investment.

Requirement - Furnish Disclosure Discussing Rollovers

When there is a rollover from a retirement plan expressly covered by Title I of ERISA, to an IRA, from an IRA to a plan or from an IRA to an IRA then the adviser must provide the retirement investor with documentation that the rollover is in his or her best interest. The adviser must consider the following factors if applicable:

1. The alternatives to a rollover including leaving money in the plan. The DOL does not mention that the person might just wish to take a distribution.
2. The fees and expenses if the funds are left in the plan compared to the fees and expenses of the recommended investment.
3. Does the employer or some other party pay for some of the Plan's administrative expenses
4. The various services performed by the plan versus the services performed by the IRA

Note, the DOL does not mention other factors such as immediate access to the funds.

The final PTE 2020-20 does not require the adviser to prepare the documentation when the rollover is from an IRA to an IRA or from an IRA to a retirement plan. However, the DOL states the adviser has the duty to make prudent efforts to obtain information about the fees, expenses and investment options associated with the IRA. The DOL offers the observation of the SEC, "it is likely to be difficult for a firm to demonstrate compliance with its obligations, or to assess the adequacy of its policies and procedures, without documenting the basis for such recommendations."

The DOL believes quite strongly that the adviser must make diligent and prudent efforts to obtain information about the fees, expenses and investment options. The DOL believes such information is available from a retirement plan because of the disclosures required by 29 CFR 2550.404a-5.

The DOL believes this duty exists even if the retirement investor refuses to provide this information. The DOL believes the fiduciary adviser still has the duty to make reasonable estimates.

If an error occurs or an omission while the adviser was acting in good faith and reasonable diligence, there will not always be a failure to comply with the disclosure requirement. Correcting the error needs to generally occur within 30 days of discovering the error. An adviser may rely in good faith on information and the assurances from other entities as long there is no reason to think such information is incomplete or inaccurate.

Requirement - Conduct an Annual Retrospective Review

The DOL has adopted the rules and policies as set forth in its proposed changes to PTE 2020-02 with only minor changes. A determination is to be made annually to determine if the policies and procedures of the financial institution were applied with respect to rollovers so that the requirements of PTE 2020-02 were met. This report must be completed within 6 months of the end of the period being reviewed. Part of this determination is to determine if any of the policies and procedures need to be changed.

A written report must be prepared and it must be provided to a senior executive officer of the financial institution who must review it and sign it. The financial institution must retain each retrospective report, any supporting data and the senior officers' certification for 6 years. Upon request by the DOL the financial institution must furnish such information within 30 days.

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PTE 2020-02 Compliance,
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A requirement of PTE 2020-02 is - if a prohibited transaction has occurred for which the filing of Form 5330 is required to be filed and the excise tax paid then it must be reported to the DOL in order for the financial institution being able to rely on PTE 2020-02. The DOL acknowledges that there are times when a financial institution is not required to file Form 5530 because the prohibited transaction was self-corrected so there is no tax owing. A financial institution is authorized to correct any prohibited transactions discovered during the retrospective review. The DOL removed its proposal that a financial institution had the duty to notify the DOL of all such violations.

Self-Correction Policies and Procedures

There will not be a prohibited transaction if the following requirements are met.

1. The violation is corrected no later than within 90 days of learning of the violation or within 90 days of when the financial institution should have learned of the violation.
2. The retirement investor did not suffer any investment loss or if the retirement investor did incur an investment loss that he or she has been made whole.
3. The financial institution must notify the person(s) conducting the retrospective review of the prohibited transaction which occurred and how it was corrected. It must be discussed in the retrospective report.

The Right to a Rollover Assistance And To Receive Certain Compensation From Third Parties

PTE 2020-02 as amended permits a financial institution to receive compensation, including commissions, fees, mark ups, mark downs, and other payments as a result of providing investment advice with respect to a rollover from an employee benefit plan to an IRA. Exemptive relief is granted for all transactions even those executed on a principal or agent basis. Prior to this change many times the receipt of such compensation by a financial institution would have been a prohibited transaction.

IRAs, the GLBA Privacy Notice Requirements and the Prohibited Transaction Rules

A financial institution acting as an IRA custodian/trustee must comply with the privacy notice laws. The duty of a financial institution to furnish the privacy notices arises from the Gramm-Leach-Bliley Act (GLBA) and Regulation P which implements the GLBA. There are situations where the Consumer Financial Protection Bureau has primary jurisdiction rather than the Federal Reserve Board, OCC, FDIC and OTS and there are situations where the FTC has enforcement jurisdiction.

The privacy laws of GLBA govern the disclosure of nonpublic personal information. There is no exception because the new customer or consumer is an IRA accountholder. A financial institution is required to furnish a notice to its customers describing its privacy policies and procedures; it must describe the conditions when it may disclose nonpublic personal information to nonaffiliated third parties; and it must describe the method or methods a consumer may use to prevent a financial institution from disclosing such information. In some situations the consumer has no right to opt out so that the financial institution is prevented from disclosing such information.

There is a second law with which a financial institution acting as an IRA custodian/trustee must be concerned if it is considering disclosing the personal information of its IRA accountholders. The prohibited transaction rules of Code section 4975 will prevent in most situations a financial institution which is the IRA custodian/trustee from disclosing information about the IRA owner.

A financial institution is required to provide customers with certain privacy notices regarding the institution's privacy policies. The duty to furnish the privacy notice applies at three different times - initially, annually, and when a change in a privacy policy requires the furnishing of a revised privacy notice.

A financial institution must provide an initial privacy notice upon the establishment of a new customer relationship. See section 1016.4(a)(1) of GBL. This privacy notice must describe the institution's privacy policies. This duty applies to an individual establishing a new IRA

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IRS Issues Additional SECURE Act 2.0 Guidance

Completion of IRS Reporting Forms For Roth SEP-IRAs Contributions and Roth SIMPLE-IRAs Contributions

On May 2, 2024 the IRS issued news release 2024-18. The IRS explains how the Form W-2 and the Form 1099-R are to be prepared by an employer which has authorized an employee to make either a Roth SEP-IRA contribution or a Roth SIMPLE-IRA contribution.

An employee who designates the employer's SEP-IRA contribution as a Roth must include this amount in income. There is a quasi-conversion.

An employee who designates his or her elective deferral contributions as a Roth SIMPLE-IRA must include this amount in income. There is a quasi-conversion.

Both of these contributions are after-tax contributions. So, the IRS guidance for completing Form W-2 is:

Contributions made at the employee's election to a Roth SEP or Roth SIMPLE-IRA are subject to federal income tax withholding, the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA), These contributions should be included in boxes 1, 3 and 5 (or box 14 for railroad retirement taxes) of Form W-2. They'll also be reported in box 12 with code F (for a SEP) or code S (for a SIMPLE-IRA).

An employee of a SIMPLE-IRA plan who designates the employer's matching contribution or the nonelective contribution as a Roth SIMPLE-IRA contribution must include this amount in income. These contributions are also after tax contributions. They are quasi-conversions. Such a transaction is not to be reported on the Form W-2. Rather, it is to be reported on the Form 1099-R. So, the IRS guidance for completing Form W-2 is:

Employer contributions to a Roth SEP or Roth SIMPLE-IRA are not subject to withholding for federal income tax,, FICA or FUTA. These contributions should be reported on Form 1099-R for the year in which they're allocated to the individual's account. The total amount should be listed in boxes 1 and 2a of Form 1099-R with code 2 or 7 in box 7, and the IRA/SEP/SIMPLE checkbox checked.

De Minimis Financial Incentives. There are times when an employer has a hard time in getting its employees to make elective deferral contributions to its 401(k) or 403(b) plan.

The SECURE Act 2.0 changed the law so that an employer may pay a financial incentive to those employees who accept the employer's offer. For example, the employer pays an employee $100 if she or he agrees to start making elective deferrals. That $100 is to be · included in the employee's income and is subject to regular tax withholding.

The IRS issued guidance on these de minim is payments in Notice 2024-23 Refer to Questions and Answers K-1 to K-8.

The new laws do not permit an employer sponsoring a SIMPLE-IRA plan to pay a de minimis financial incentive.

CWF's Email Guidance – Completing the 2023 Form 5498 For 2024 RMD

Q-1. We are getting calls here at the bank from customers who have taken their RMD for 2024. The 5498 form says it is for current tax year 2023. Would the reasoning be the balance of the IRA is from 12-31-2023? And the customer has until 12-31-2024 to take the required RMD from the balance of 12-31-2023?

A-1. Yes the Form is the 2023 Form 5498 but box 11 clearly indicates that it is to be checked only if an RMD applies for 2024.

The 2023 Form 5498 is the way the IRS is informed if an IRA accountholder is age 73 or older in 2024 and has an RMD for 2024. Box 11 is not to be checked if the IRA accountholder is a beneficiary.

The IRS procedure is - an IRA custodian has the duty to tell the IRS if a living accountholder has an RMD for 2024. The IRS requires an IRA custodian to furnish a complying RMD notice to an IRA accountholder for 2024 by 1/31/2024.

The IRA custodian is not required to inform the IRS of the RMD amount for 2024 or the applicable deadline. CWF understands that the IRS and the U.S. Senate have an unwritten agreement that the IRS will not require an IRA custodian to inform it of each person's RMD amount.

The IRS allows an IRA custodian who completes boxes 11, 12a and 12b and furnishes the 2023 Form 5498 by 1/1/2024 to use it to satisfy the RMD Notice requirement. By doing so the information in boxes 12a and 12b many times will be "voluntarily" shared with the IRS. It is the IRS' way of being informed of the RMD amount without violating its agreement with the US Senate.

Assisting With a QDRO Rollover and Assisting With a Transfer Incident to a Divorce

An IRA custodian has certain duties when a customer has a rollover contribution because of a QDRO or has a transfer contribution because there is a transfer incident to a divorce. QDRO is the acronym for a Qualified Domestic Relations Order.

A QDRO occurs with respect to a qualified plan and a transfer incident to a divorce occurs with respect to an IRA.

A QDRO authorizes that funds of a defined participant are to be transferred into an account for the ex-spouse who is called an alternate payee. If under the plan terms this ex-spouse is eligible for a distribution, then the ex-spouse has the three standard distribution options available to him or her. Option #1. Directly rollover the balance to his or her IRA. Option #2. Be paid cash. Option #3. Take some in cash and directly rollover the remainder. Many times plan administrators do not make it clear that a person has the third option. Electing that third option will be beneficial in certain situations.

For example, John Doe is a participant in the ABC 401(k) plan. He has an account balance of $90,000. The divorce decree states that $50,000 is to be transferred from John's account into an alternate payee account for Ramona. And this done. The divorce decree also states that Ramona has the duty to pay certain joint credit card debts in the amount of $10,000.

Ramona should instruct the plan administrator that she wishes to receive $10,000 of her $50,000 in cash and the remaining $40,000 is to be directly rolled over to her IRA She will have to include the $10,000 in her income but she will not owe the 10% tax because a distributed related to a QDRO is an exception to the 10% tax.

If Ramona instructs the plan administrator that she wants to directly rollover the $50,000 into her IRA, then she will learn a tax lesson the hard way. If she withdraws $10,000 from her IRA after the rollover, she will have to include the $10,000 in her income and she will owe the 10% additional tax. There is no divorce exception to the 10% tax for a distribution from an IRA.

The tax rules not authorize a rollover of IRA funds from a spouse to an ex-spouse. Such an attempted transaction would result in an excess contribution situation. The transaction must be structured as a transfer incident to a divorce, There must be a court order instructing this transfer. Such a transfer is not to be reported to the IRS on Form 1099-R as it is non-reportable transfer. A Form 1099-R needs to be prepared if there is a distribution to an ex-spouse. The IRS position is, since the funds came out of the spouse's IRA, the Form 1099-R must be prepared for the spouse and not for the ex-spouse who received the distribution.

CWF's IRA/HSA Guidance

Q-1. An employee is on his parent's insurance (a high-deductible plan with HSA). The parent has a family HSA.

The employee stated there is a new rule: if you are an "Adult Child" and still on your parent's insurance, you are eligible to open an HSA, so he would like to open an HSA.

Are you aware of the new rule? And if so, what is the maximum? Is it individual or would it fall under the family maximum?

A-1. It is not a new rule or situation, but it's a rule or situation that many times is not understood. A person to be HSA eligible must meet the following 4 requirements:

1. Be covered by a qualifying HDHP;
2. Not be covered by a low deductible health plan;
3. Not be able to be claimed as a dependent by another taxpayer; and
4. not be enrolled in Medicare (generally age 65).

The group health insurance laws provide that a young person who has been covered under a parent's group health plan is able to continue to be covered until the age of 26.

Often a young person will no longer be able to be claimed as a dependent by his or her parent(s).

There are persons under the age of 26 who are eligible to make an HSA contribution because they meet these 4 requirements.

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Preliminary Tax Data – IRA/Pension Statistics for 2022

Tax statistics may be boring, but they are important for many reasons. IRAs and 401(k) plans are tax preferred plans. Individuals receive tax benefits when they make contributions to such plans. The U.S. government is interested because the general tax rule is, when a person takes a distribution he or she must include that distribution in their income and pay the marginal tax rate applying to him or her unless an explanation is furnished explaining why the funds are not taxable.

$1.37 trillion was withdrawn from IRAs and 401(k) plans and other pension plans in 2022. One can assume taxes of 20% - 37% were to be paid on these distributions.

The statistics below make clear an IRA and Keogh custodian wants to understand who its high income clients are. $28.9 billion was contributed to SEP/SIMPLE/Keogh plans by self-employed individuals and 93.66% came from individuals with incomes of $100,000 or more. The average contribution was $30,422.

IRA contributions for 2022 totaled $13.1 billion with over 70.75% coming from individuals with modified adjusted gross incomes in the range of $50,000 and above. The average contribution was $5,417.

CHART A — SEP/SIMPLE/Profit Sharing Chart

Year	Contribution Amount	Number of Contributors	Average Contribution
2003	$16.9 billion	1.19 million	$14,202
2004	$18.0 billion	1.17 million	$15,385
2005	$19.4 billion	1.20 million	$16,202
2006	$20.2 billion	1.18 million	$17,200
2007	$20.1 billion	1.14 million	$17,720
2008	$18.5 billion	.97 million	$19,072
2009	$17.5 billion	.88 million	$19,780
2010	$17.2 billion	.87 million	$19,776
2011	$17.6 billion	.87 million	$20,256
2012	$19.2 billion	.88 million	$21,843
2013	$20.2 billion	.90 million	$22,364
2014	$20.8 billion	.93 million	$22,438
2015	$22.2 billion	.95 million	$23,234
2016	$22.15 billion	.93 million	$22,798
2017	$22.15 billion	.93 million	$24,025
2018	$25.14 billion	.97 million	$25,793
2019	$26.15 billion	.96 million	$27,110
2021	$29.13 billion	1.00 million	$28,922
2022	$28.93 billion	.95 million	$30,422

CHART B — Traditional IRA Chart

Year	Contribution Amount	Number of Contributors	Average Contribution
2003	$10.16 billion	3.46 million	$2,936
2004	$10.20 billion	3.38 million	$3,018
2005	$12.21 billion	3.29 million	$3,707
2006	$12.77 billion	3.29 million	$3,885
2007	$13.19 billion	3.37 million	$3,914
2008	$11.91 billion	2.78 million	$4,284
2009	$11.49 billion	2.64 million	$4,358
2010	$11.71 billion	2.63 million	$4,449
2011	$11.26 billion	2.62 million	$4,302
2012	$12.05 billion	2.61 million	$4,608
2013	$13.30 billion	2.77 million	$4,797
2014	$13.44 billion	2.75 million	$4,896
2015	$13.25 billion	2.67 million	$4,960
2016	$13.62 billion	2.69 million	$5,056
2017	$13.63 billion	2.67 million	$5,106
2018	$12.47 billion	2.47 million	$5,000
2019	$12.58 billion	2.45 million	$5,133
2021	$13.79 billion	2.43 million	$5,673
2022	$13.15 billion	2.42 million	$5,417

Guidance,
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The amount an eligible person may contribute to their HSA depends upon whether the individual is covered by a family HDHP or a single HDHP. For 2024 a person under age 55 who is covered under a family HDHP is eligible to make a maximum HSA contribute of $8,300.

The law as written allows both a parent and a child to make their separate $8,300 HSA contributions.

The amount contributed by a parent to their HSA does not affect the amount a child may contribute to their HSA.

Individuals under the age of 26 who are eligible should be considering and making both HSA and IRA contributions.

SEP/SIMPLE/Keogh Deductible Contributions for 2022

1. The number of tax returns claiming a deduction for a self-employed person's contributions to a profit sharing, SEP or SIMPLE stayed constant at .95 million.
2. The amount contributed by self-employed individuals to a profit sharing plan, SEP or SIMPLE increased to 30.42 billion from 28.91 billion.

What was the adjusted gross income (AGI) of those who made SEP/SIMPLE/Keogh contributions?

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	13,543	9,595	31,977	88,070	236,722	571,189	951,097
% of Total Returns	1.42%	1.00%	3.36%	9.26%	24.89%	60.07%	100%
Contribution Amt. (in thousands)	$248,917	$91,426	$303,388	$1,188,961	$4,093,391	$23,008,592	$28,934,676
% of Total Contr.	.85%	.32%	1.05%	4.11%	14.15%	79.51%	100%
Avg. Contr. Amt.	$18,380	$9,529	$9,488	$13,500	$17,292	$40,282	$30,422

CWF Observations on SEP/SIMPLE/Keogh Contributions for 2022

1. The average contribution per return is $30,422 for 2022.
2. 60.07% of contributions ($23.1 billion) come from individuals with AGI of $200,000 or more.
3. 93.66% of contributions (24.3 billion) come from individuals with AGI of more than $100,000.
4. The average contribution is $40,282 for those with MAGI of $200,000 or more.

Deductible Traditional IRA Contributions for 2022

The number of tax returns claiming a deduction for a traditional IRA contribution increased slightly.

The amount contributed to traditional IRAs decreased to 13.15 billion from 13.75 billion.

What was the AGI of those who made traditional IRA contributions for 2022?

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	100,356	201,870	407,693	828,219	666,078	223,222	2,427438
% of Total Returns	4.13%	8.32%	16.80%	34.12%	27.44%	9.19%	100%
Contribution Amt. (in thousands)	$390,557	$794,212	$16,76,234	$4,232,705	$3,991,190	$2,065,647	$13,150,543
% of Total Contr.	2.97%	8.05%	13.17%	32.27%	32.29%	11.81%	100%
Avg. Contr. Amt.	$3,892	$3,934	$4,112	$5,111	$5,992	$9,254	$5,417

CWF Observations

1. The average IRA contribution, per return, was $5,412 for 2022. The average was $9,254 for those in the $200,000 or more bracket.
2. 34.12% of all IRA contributions came from individuals with AGI between $50,000-$99,999.
3. 78.24% of all IRA contributions for 2022 came from individuals with AGI of $50,000 or More.

IRA Distributions for 2022

(Based on AGI)

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	1,553,203	1,612,368	1,922,535	4,524,633	4,539,450	2,404,094	16,556,223
% of Total Returns	9.38%	9.74%	11.61%	27.33%	27.42%	14.52%	100%
Distribution Amt. (in thousands)	$9,312,544	$14,961,644	$23,283,429	$82,145,203	$149,860,160	$167,365,243	$446,928,224
% of Total Distrib.	2.09%	3.34%	5.21%	18.38%	33.53%	37.45%	100%
Avg. Distrib. Amt.	$5,996	$9,279	$12,111	$18,155	$33,013	$69,617	$26,990

Pension Distributions for 2022

(Based on AGI)

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	3,146,280	3,506,656	4,333,360	8,969,631	7,523,208	2,954,514	30,433,649
% of Total Returns	10.34%	11.52%	14.24%	29.47%	24.72%	9.71%	100%
Distribution Amt. (in thousands)	$21,550,807	$45,768,361	$79,785,419	$256,657,445	$329,617,696	$192,287,649	$925,667,375
% of Total Distrib.	2.33%	4.94%	8.62%	27.73%	35.60%	20.78%	100%
Avg. Distrib. Amt.	$6,850	$13,052	$18,412	$28,614	$43,755	$65,083	$30,416

CWF Observations

1. In 2022 $925 billion was withdrawn from pensions versus $447 billion from IRAs.
2. The average pension distribution was $30,416 versus $26,990 for IRAs.
3. As to be expected, the average distributions increased as one's income bracket increased.
4. Most distributions occur by individuals who are in the $50,000 - $199,999 income range.
5. The US Treasury will realize substantial tax revenues since the marginal tax rate applying to most of these distributions is 25% or higher.

Preliminary HSA Tax Data for 2022

The IRS has estimated that there were 2,503,179 tax returns filed showing contributions to HSAs and who claimed tax deductions totalling 6.1 billion dollars for 2022. This means the average contribution per tax return was $2823.

Since this data comes from the 1040 tax returns it does not indicate any data for contributions made by corporate employers or deductions by corporations for the HSA contributions made by an employee under a cafeteria plan.

For 2022, the maximum HSA contribution was $3,650 for self-only coverage and $7,300 for family coverage.

Individuals age 55 or older were eligible to make an additional catch-up contribution of $,1000.

HSA Contributions for 2022 (Based on AGI)
What was the AGI of those who made HSA contributions?

	Under $15,000	$15,001 to $29,999	$30,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 Or more	Total
Number of Returns	32,500	89,855	224,731	559,916	593,218	552,958	2,053,179
% of Total Returns	1.58%	4.38%	10.95%	27.27%	28.89%	26.93%	100%
Deduction Amt. **(in thousands)**	$83,438	$172,352	$399,851	$1,139,401	$1,788,907	$2,554,657	$6,138,607
% of Total Deduct.	1.36%	2.81%	6.52%	18.56%	29.14%	41.61%	100%
Avg. Deduct. Amt.	$2,567	$1,918	$1,779	$2,035	$3,016	$4,620	$2,990

Observations

CWF Observations

1. The average return showed a contribution of $2,990.
2. For 2022 the number of returns was 2,503,179. For 2022 the total contributions were $6,138,607.
3. 86.20% of the contributions came from individuals with $50,000 or more of AGI.
4. The largest average contribution was from the $200,000 and over group and it was $4,620 per return. The next largest average contribution was $3,016 and it came from the $100,000 to $199,99 group.
5. The total amount contributed and the average contribution did increase for each income range going from lower to higher. Those earning $100,000 and above contributed 55.82% of the contributions.

GLBA,
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with a financial institution when such individual has not previously been a customer of the financial institution.

A financial institution is also required to provide an annual privacy notice. The financial institution is able to define this annual period as being any 12 consecutive month period which is applied on a consistent basis. For example, if an individual opened a new IRA with Institution ABC on February 17, 2023, the annual notice to that customer for the second year must be furnished by December 31, 2024.

A financial institution is also required to provide a revised privacy notice if the institution modifies it procedures so that a revised privacy notice must be furnished. Except for a number of exceptions, a financial institution which chooses to disclose nonpublic personal information about a consumer to a nonaffiliated third party other than as described in the initial notice must furnish a revised privacy notice.

The privacy notice must describe if and how the financial institution shares its consumers' nonpublic information with other parties. The privacy notice must describe how the financial institution protects the information it collects and maintains. The privacy notice must discuss whether or not an individual has the right to prevent such information from being shared with certain nonaffiliated third parties. And if so, how the person must furnish his or her instruction to opt out.

A financial institution has the duty to furnish a privacy notice to both consumers and customers. Not all consumers will be customers. A consumer is an individual who obtains or has in the past obtained or applied for a financial product or service from a financial institution to be used primarily for personal, family or household purposes.

A customer is a consumer who has a continuing customer relationship with the financial information.

Regulation P expressly provides that a customer relationship has been established when a consumer executes the contract to open a deposit account, including an IRA deposit account.

Regulation P also expressly provides that a consumer has a continuing relationship with a financial institution if the financial institution is the IRA custodian or trustee and the IRA holds an investment product and the financial institution acts as a custodian for securities or for assets in an IRA.

A financial institution is not required to furnish a consumer with an initial privacy notice if the two conditions are met. First, the financial institution does not have a customer relationship with the consumer. Second, the financial institution does not disclose any nonpublic personal information about the consumer to any nonaffiliated third party other than as authorized by sections 1016.13, 1016.14 and 1016.15. Section 1016.13 creates an exception to the opt out requirements for service providers and joint marketing agreements. Section 1016.14 creates exceptions to the notice and opt requirements for processing and servicing transactions that a consume has requested or authorized.

A financial institution is not required to furnish a consumer with the annual privacy notice if two conditions are met. The BCFP recently adopted a new rule. First, the financial institution must provide nonpublic personal information to a third party only in accordance with the exceptions within GLBA (e,g, service provider). Secondly, the financial institution must not have changed its policies and practices since the last time it furnished its disclosure describing such policies and procedures.

The law has some major exceptions which allow a financial institution to disclose certain nonpublic personal information about a customer to a nonaffiliated third party.

A customer has no right or ability to opt out if the information is provided to a nonaffiliated third party which assists the financial institution in performing its banking duties as long as the financial institution provides the initial notice and the financial institution has a contract with the third party service provider and such contract prohibits the third party from disclosing or using this information.

In summary, the GLBA privacy notice rules apply to IRA accountholders. A determination will need to be made if and how the financial institution will comply with the requirements to furnish the initial notice, the annual notice and any revised notice. It appears a financial institution could initially inform the new IRA accountholder that it never shares nonpublic personal information except as GLBA permits. That is, a financial institution has no duty to inform the IRA accountholder that it may use the services of a third party IRA service provider to assist with IRA reporting duties. There would be no duty to furnish the annual privacy notice to the IRA accountholders as long it would not change its policies and procedures.

IRS Issues 2025 Indexed Amounts for HSAs

The HSA contribution limits for 2025 are $150 higher for single HDHP coverage and $250 higher for family HDHP coverage. The Treasury Department and Internal Revenue Service issued new guidance on the maximum contribution levels for High Deductible Health Plans (HDHPs) that must be used in conjunction with HSAs. The 2025 limits are set forth in Revenue Procedure 2024-25 as issued by the IRS on May 9, 2024.

Maximum Contribution Limits Under Age 55

	2024	2025
Single HDHP	$4,150	$4,300
Family HDHP	$8,300	$8,550

Maximum Contribution Limits Age 55 & Older

	2024	2025
Single HDHP	$5,150	$5,300
Family HDHP	$9,300	$9,550

HSA Catch-Up Contributions

	2024	2025
Age 55 and Older	$1,000	$1,000

High Deductible Health Plans

	Minimum Annual Deductible		Maximum Annual Out-of-Pocket Expenses	
	2024	2025	2024	2025
Single Coverage	$1,600	$1,650	$8,050	$8,300
Family Coverage	$3,200	$3,300	$16,100	$16,600

A married couple with both spouses over the age of 55 is able to maximize their HSA contributions in 2025 only if they both have an HSA. That is, there must be two HSAs. One spouse is able to contribute $9,550 to their HSA and the other spouse would contribute the catch-up amount of $1,000 to their HSA. The contributions could be vice versa. The total contribution amount of $10,550 could be split equally between the two spouses. Each would have a contribution of $5,275.