

# THE Pension Digest

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*“The Pension Specialists”*



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## **SIMPLE-IRA Summary Description - IRA Custodian Must Furnish by October 2017 for 2018**

What are a financial institution's duties if it is the custodian or trustee of SIMPLE IRA funds? After a SIMPLE IRA has been established at an institution, it is the institution's duty to provide a Summary Description each year within a reasonable period of time before the employees' 60-day election period. CWF believes that providing the Summary Description 30 days prior to the election period would be considered "reasonable." The actual IRS wording is that the Summary Description must be provided "early enough so that the employer can meet its notice obligation." You will want to furnish the Summary Description to the employer in September or the first week of October. The employer is required to furnish the summary description to its employees before the employees' 60-day election period.

IRS Notice 98-4 provides the rules and procedures for SIMPLEs. This notice is reproduced in CWF's IRA Procedures Manual.

The Summary Description to be furnished by the SIMPLE IRA custodian/trustee to the sponsoring employer depends upon what form the employer used to establish the SIMPLE IRA plan.

The employer may either complete Form 5305-SIMPLE (where all employees' SIMPLE IRAs are established at the same employer-designated financial

institution) or Form 5304-SIMPLE (where the employer allows the employees to establish the SIMPLE IRA at the financial institution of his or her choice).

There will be one Summary Description if the employer has used the 5305-SIMPLE form. There will be another Summary Description if the employer has used the 5304-SIMPLE form. If you are a user of CWF forms, these forms will be Form 918-A and 918-B.

The general rule is that the SIMPLE IRA custodian/trustee is required to furnish the summary description to the employer. This Summary Description will only be partially completed. The employer will be required to complete it and then furnish it to its employees. The employer needs to indicate for the upcoming 18 year the rate of its matching contribution or that it will be making the non-elective contribution equal to 2% of compensation.

However, in the situation where the employer has completed the Form 5304-SIMPLE, the IRS understands that many times the SIMPLE IRA custodian/trustee will have a minimal relationship with the employer. It may well be that only one employee of the employer establishes a SIMPLE IRA with a financial institution. In this situation, the IRS allows the financial institution to comply with the Summary Description rules by using an alternative method.

To comply with the alternative method, the SIMPLE IRA custodian/trustee is to furnish the individual SIMPLE IRA accountholder the following:

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- A current 5304-SIMPLE: This could be filled out by the employer, or it could be the blank form
- Instructions for the 5304-SIMPLE
- Information for completing Article VI (Procedures for withdrawal) (You will need to provide a memo explaining these procedures).
- The financial institution's name and address.

Obviously, if an institution provides the employee with a blank form, he/she will need to have the employer complete it, and, the employee may well need to remind the employer that it needs to provide the form to all eligible employees.

CWF has created a form which covers the "alternative" approach of the Summary Description being provided directly to an employee.

The penalty for not furnishing the Summary Description is \$50 per day.

Special Rule for a "transfer" SIMPLE IRA.

There is also what is termed a "transfer" SIMPLE IRA. If your institution has accepted a transfer SIMPLE IRA, and there have been no current employer contributions, then there is no duty to furnish the Summary Description.

However, if there is the expectation that future contributions will be made to this transfer SIMPLE IRA, then the institution will have the duty to furnish the Summary Description.

#### **Reminder of Additional Reporting Requirements**

The custodian/trustee must provide each SIMPLE IRA account holder with a statement by January 31, 2018, showing the account balance as of December 31, 2017 (this is the same as for the traditional IRA), and include the activity in the account during the calendar year (this is not required for a traditional IRA). There is a \$50 per day fine for failure to furnish this statement (with a traditional IRA, it would be a flat \$50 fee). The purpose of this requirement is so that employees may determine their elective deferral contributions that are being contributed to their SIMPLE-IRA on a timely basis.

## **12/31/17 is RMD Deadline for 5-Year Rule if Death Occurred in 2012**

This article is a reminder to an IRA custodian to make sure that any nonspouse beneficiary using the 5-year RMD rule must close out an inherited IRA by December 31, 2017, if the IRA accountholder died in 2012. If not closed, the beneficiary will owe the 50% tax on the balance as of December 31, 2017.

The standard 5-year rule applies to the nonspouse beneficiary of an IRA accountholder who died on or after January 1, 2012. The inherited IRA must be closed by December 31 of the fifth year following the year of his or her passing. This is the December 31, 2017, if the person died in 2012.

## **Is it Still Possible to Establish a SIMPLE-IRA Plan for 2017?**

Yes, if the sponsoring business has never sponsored a SIMPLE-IRA Plan before and if the business has not made any contributions for 2017 to another type of retirement plan (e.g. profit sharing plan or SEP).

A person or business can set up a SIMPLE-IRA plan effective on any date between January 1 and October 1 of a year, provided it did not previously maintain a SIMPLE-IRA plan. This requirement does not apply if the new employer comes into existence after October 1 of the year the SIMPLE-IRA plan is set up and you set up a SIMPLE-IRA plan as soon as administratively feasible after you come into existence. If an employer previously maintained a SIMPLE-IRA plan, it can be set up a SIMPLE-IRA effective only on January 1 of a year. A SIMPLE-IRA plan cannot have an effective date that is before the date you actually adopt the plan.

## **Employers and Payroll Deduction Plans or Services**

A financial institution may wish to inform its business clients it is willing to assist with IRA contributions arising from payroll deductions.

Everyone should be saving more and IRAs are an excellent savings tool. Too many think that because he or she is participating in a 401(k) that there are no benefits to make an IRA contribution. But there is and more individuals should make periodic IRA contributions.

An employer may agree to assist one or more of its

employees in making traditional IRA and/or Roth IRA contributions by making payroll deductions. That is, an employer agrees to send the payroll deduction to an IRA custodian an individual's IRA contribution. For example, ABC corporation withholds \$100 from Roberta's wages each payroll and transmits a check to First National Bank, to be deposited into Roberta's Roth IRA.

An employer most likely will make this service available to all employees who would wish to take advantage of the employer's offer to assist, but the employer could choose to perform this special service for only certain employees. An employer might require that the IRA contributions must be made with one selected financial institution.

Set forth below is the IRS summary on payroll deduction IRA services..

### **Operating a Payroll Deduction IRA**

#### **What are the employer's administrative responsibilities?**

- There is no annual filing or reporting requirement for a Payroll Deduction IRA.
- The employee's Form W-2 will not reflect the contributions and will indicate that the employee is not a participant in a retirement plan.
- No separate statements need to be provided to the employees.

#### **Who is eligible for participation?**

Any employee who performs services for your company is eligible to be included in a Payroll Deduction IRA. If you offer it to one employee, then you should offer it to everyone.

#### **What are the contribution rules?**

- Employees fund their own Payroll Deduction IRA through payroll withholding.
- Contributions to each employee's account are limited.
- After employers send Payroll Deduction IRA contributions to each financial institution, they have no further responsibility for the amounts contributed.

#### **Investments:**

- Each employee has the freedom to move their IRA assets from one IRA to another.
- The financial institutions selected will manage the funds.
- Payroll Deduction IRA contributions can be invested in stocks, mutual funds, money market funds, savings accounts and other similar types of investments.

#### **What are the vesting rules?**

Each employee is always 100% vested in (or has total ownership of) the contributions to their Payroll Deduction IRA.

## **IRA Tax Facts**

IRAs are a tax subject. There are numerous dollar rules, percentage rules and deadlines. The discussion is for tax year 2017.

### **Deadlines.**

1. January 31, 2017. An IRA trustee had the duty to furnish an RMD Notice to IRA accountholders (traditional, SEP and SIMPLE) who would be age 70 1/2 or older as of December 31st, 2017.

2. January 31, 2018. An IRA trustee has the duty to furnish to IRA accountholders and inheriting IRA beneficiaries a Form 1099-R and/or a fair market value statement as applicable.

The IRA trustee also has the duty to furnish an RMD Notice to IRA accountholders (traditional, SEP and SIMPLE) who are age 70 1/2 or older as of December 31st 2018.

Under current IRS procedures, the IRA trustee is not required to furnish an RMD to an inheriting IRA beneficiary. CWF suggest an IRA trustee do so to lessen potential liability claims by a beneficiary who has excess RMD accumulations.

3. April 17, 2018 is the tax filing deadline for 2017.

A person must make a traditional IRA contribution or a Roth IRA contribution for a given tax year by the tax filing deadline for such year. The deadline for 2017 is April 17, 2018 due to the effect of the Emancipation Day holiday.

An employer has until its tax filing deadline as modified by a tax extension to make its SEP-IRA contribution or its contribution to a SIMPLE IRA.

4. April 1, 2018. A person who is older than age 70 1/2 in 2017 has an RMD deadline of December 31, 2017. A person who waits to take their 2017 in 2018 must also take their 2018 RMD by December 31st.

5. May 31, 2018. The IRA trustee must furnish IRA accountholders, inheriting IRA beneficiaries and the IRS a 2017 Form 5498 reporting 2017 contributions and the FMV as of December 31, 2017.

6. 0-25% of compensation. An employer sponsoring a SEP IRA plan has the discretion each year to decide what percentage of compensation will be contributed for an eligible employee. The employer may decide to con-

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tribute 4% one year, 11% the next year, 20% the following year, etc.

Compensation for this purpose is limited to \$270,000.

7.2%. An employer sponsoring a SIMPLE IRA plan may choose to make a 2% nonelective contribution for all eligible employees rather than making a matching contribution.

Compensation for this purpose is limited to \$270,000.

8. 3%. An employer sponsoring a SIMPLE IRA plan may choose to make match the elective deferral contribution made by an eligible employee up to a maximum of 3% of compensation.

Compensation for this purpose is limited to unlimited.

9. 1% and 2%. An employer sponsoring a SIMPLE IRA plan may set its matching contribution rate at 1% and/or 2% in two out of five years rather than the 3%.

10. 6%. A person who makes an excess contribution to a traditional IRA, Roth IRA, SEP-IRA or SIMPLE IRA will be assessed a 6% penalty tax unless corrected by a deadline.

The IRS' position is that they don't have the authority to waive this tax. It must be paid.

11. 10%. An IRA owner who withdraws taxable IRA funds is required to pay an additional 10% tax unless he or she qualifies for one of many exceptions.

One of the exceptions is - a person who incurs medical expenses exceeding 10% of their MAGI does not owe the 10% tax on such excess amount if withdrawn from their IRA. Example: Anita has MAGI of \$80,000 and unreimbursed medical expenses of \$12,000. She withdraws \$4,000 from her traditional IRA.

She will include the \$4,000 in her taxable income, but she does not owe the 10% tax on the \$4,000, as this was the amount in excess of the 10%

12. 10%, 15%, 25%, 28%, 33%, 35% and 39.6%. An IRA owner or a beneficiary who withdraws IRA funds (but not basis) must include the distribution in income and then pay tax at his/her marginal tax rate.

13. 10%. An IRA custodian/trustee must withhold 10% of the amount of an IRA distribution unless the recipient instructs to have more withheld or to have no withholding. An IRA custodian may choose to accommodate a

person wishing to have less than 10% withheld, but is not required to do so.

14. 15% and 100%. When an IRA trustee is directly involved in a prohibited transaction, it is liable to pay a 15% tax and also a 100% tax if it does not correct its prohibited transaction.

15. 25%. A SIMPLE IRA owner who withdraws SIMPLE IRA funds before the 2 year rule is met is required to pay an additional 25% tax unless he or she qualifies for one of many exceptions.

16. 50%. An IRA owner or a beneficiary who fails to withdraw 100% of his or her RMD for the year owes a 50% tax to the extent of his or her excess accumulation.

17. 100%. A person is limited to contributing to his or her traditional IRA or Roth IRA to the lesser of 100% of his or taxable compensation or \$5,500 if less than age 50 or \$6,500 if age 50 or older as of December 31st of such year.

18. 7 Days. A person who has established a new IRA plan agreement has 7 days to revoke the IRA as long as the IRA custodian furnished him or her with the IRA plan agreement and the disclosure statement simultaneously. A person's attempt to waive this revocation requirement will most likely be held invalid by the IRS and a court.

19. 60 Days. A person must complete his or her rollover within 60 days of his or her receipt of the distribution. The 60 day period commences on the first day following receipt of the distribution.

A federal law requires IRS to waive the 60 day period requirement if equity and fairness require its waiver. The IRS has adopted a self-certification procedure with special completion of the Form 5498 to inform the individual and the IRS that a rollover was made after the 60 day period.

20. 365 Days. A person is authorized to rollover only one distribution during a time period of 365 days.

A person who receives a distribution on August 24th, 2017, and rolls it over is eligible to rollover a subsequent IRA distribution only if it occurs on August 24th, 2018 or later.

A person who receives a distribution on August 24th,