



THE Pension Digest

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IRS Issues Guidance on the New Safe Harbor Exceptions Applying to Certain 2016 1099-R Forms

In June/July of 2015 a new tax law was enacted increasing the penalty for failing to prepare a required Form 1099-R or for preparing an incorrect Form 1099-R (and many other reporting forms) from \$100 per form to \$250 per form. A \$250 penalty is owed for an incorrect form furnished to the individual recipient and another \$250 penalty if the IRS is furnished an incorrect Form 1099-R. Such penalties are very costly.

There was a limited public outcry against the new \$250 per form penalty as some new exceptions to the \$250 penalty were enacted in December of 2015. The Protecting Americans from Tax Hikes Act of 2015 became law on December 18, 2015.

This law created new two new exceptions so an IRA custodian will not owe the \$250 penalty (times two) even though a 1099-R form has been prepared in error. For some time the law has contained what are called de minimis error exceptions and as long as there are only a very limited number of incorrect 1099-R forms, the filer will not owe the penalty amount. These other "older" exceptions are beyond the scope of this article.

There are two new exceptions. The IRS has issued Notice 2017-09 to issue temporary guidance until the IRS issues a regulation. The IRS probably would have preferred that these new exceptions had not become law, but they are a welcome change for IRA custodians.

First, the \$250 penalty is not owed if the error relates to an incorrect dollar amount and the error differs from the correct amount by no more than \$100. For example, Jane Doe's 1099-R form shows a distribution amount of \$9,800 when the correct distribution amount was \$9,900 or alternatively it was \$9,700. In such case, the new general rule is that the IRA custodian is not required to prepare a corrected Form 1099-R for Jane Doe.

Second the \$250 penalty is not owed if the error relates to an incorrect tax withheld amount and the error differs from the correct amount by no more than \$40. For example, John Doe's 1099-R form shows a distribution with a withheld amount of \$450 when the correct withheld amount was \$490 or alternatively it was \$410. In such case, the new general rule is that the IRA custodian is not required to prepare a corrected Form 1099-R for John Doe.

There is an exception to the exception. If Jane Doe or John Doe makes a certain election, then the IRA custodian/trustee will not be able to use this new de minimis exception and will owe the \$250 penalty regardless that the error is within the \$100 or the \$40 range.

There is also an exception to the exception. If the IRA distributee has made the election and the IRA custodian within 30 days of the election prepares and files a corrected Form 1099-R, then the IRA custodian will not owe the \$250 penalty as its error is deemed subject to the reasonable cause exception and is not willful neglect. If special rules create a longer time period, then such longer time periods will be available.

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These new rules apply to 1099-R forms required to be filed with the IRS and furnished to individuals after December 31, 2016. That is, it applies to 2016 forms which must be furnished/filed in 2017.

An IRA distributee has the right to instruct (i.e. elect) the IRA custodian/trustee that it will not be able to use the de minimis exception and that it must prepare a corrected Form 1099-R.

The IRA custodian has the right to create the method(s) the IRA distributee must use to notify the IRA custodian that it will not be able to use the de minimis exception and that it must prepare a corrected Form 1099-R. Such method(s) must be reasonable. It can be required that the election be in writing, it can be required that the instruction be made by making a telephone call or it can be made on-line. The IRA custodian only needs to establish one method. If so, the IRA distributee must use this method and the individual can't use another method even if his/her method is reasonable. Exception, if the IRA custodian establishes an on-line method, the individual must be allowed to use another method of his or her election.

The IRA custodian does not have the right to limit in any way the IRA distributee's right to request a corrected Form 1099-R such as imposing a time limit or any preconditions.

The IRA custodian must inform an IRA distribution of the election procedures before a person makes his or her election.

If an IRA custodian fails to establish an election method, then the IRA distributee may furnish his or her written election to the IRA custodian's address as set forth on the incorrect Form 1099-R or as directed by the IRA custodian after he or she has inquired. An IRA distributee in his or her election must furnish the following information -

- (1) that he or she is making the election;
- (2) his or her name, address and TIN;
- (3) that a Form 1099-R was prepared with an error with applicable account number, if applicable; and
- (4) the year or years the IRA distributee wants the election to apply to. It might be the current year or the current year and certain future years.

An IRA custodian is ineligible to use this de minimis error safe harbor rule if it has failed to file or furnish a correct Form 1099-R or if it has intentionally misreported an incorrect dollar amount. This is true even for distributions less than \$100 or withheld amounts less than \$25.

The IRA custodian must retain records of an IRA distributee's election or a revocation of an election for as long as that information may be relevant to the administration of any tax law.

The IRS will be writing regulations discussing these new rules and procedures for use of the de minimis errors safe harbor rules. It is expected that an IRA custodian will be required to notify an IRA distributee of the new safe harbor and that he or she may request to be furnished a corrected Form 1099-R and that the IRA custodian will not have the right to not prepare a corrected Form 1099-R as is possible under the new safe harbor. A good way to meet this requirement will be to discuss these new rules in the IRA plan agreement and disclosure statement booklet. An explanation could also be furnished along with the Form 1099-R. The IRS most likely will add a discussion to the instructions furnished to the IRA distributee.

As under pre-2016 laws, an IRA custodian may still choose to always prepare corrected Forms 1099-R when one has been prepared incorrectly even though the law no longer requires it and if the IRA distributee has not required it. This is obviously what the IRS prefers.

Although this article has discussed the new rules applying to the Form 1099-R, in fact these new rules apply to many IRS reporting forms as set forth in Code 6724. However, these new rules do not apply to Form 5498, IRA FMV statements, RMD Notices, Form 1099-SA and Form 5498-SA.

January 31, 2017 Deadlines

January 31, 2017 is the deadline for an IRA custodian/trustee to furnish (i.e. mail, email, fax or personally deliver) the following to its IRA accountholders and its inheriting IRA beneficiaries. If this deadline would be missed, the IRS may assess the fines discussed at the end of the article.

January 31, 2017 falls on a Tuesday (the fifth Tuesday in January).

2016 Form 1099-R

Any person (acountholder or beneficiary) who received a distribution(s) from an IRA totaling more than \$10 for the year must be furnished a 2016 Form 1099-R.

This FMV statement must be prepared on a per plan agreement basis. That is, if a person would have two traditional IRAs and one Roth IRA, then he or she would need to be furnished three Form 1099-Rs. In addition, there must be a Form 1099-R prepared for each applicable distribution code. For example, if a person has traditional IRA and one distribution required the use of Code "1", one the use of code "3" and one the use of Code "7", then three Form 1099-R's must be furnished.

When an individual receives more than one copy of the Form 1099-R, then it is mandatory for the IRA custodian/trustee to insert a unique number in the account number box located in the lower left hand corner of the form. Even though there will be times when furnishing this account number is not required, the IRS encourages IRA custodian/s trustees to voluntarily furnish it. This account number allows the IRS to process the submissions of any corrected forms.

If the IRA custodian would fail to timely furnish a 2016 Form 1099-R or furnishes one prepared with errors due to its errors, then the IRS may assess a fine of \$250 per form.

Fair Market Value (FMV) statements

An IRA custodian must furnish a FMV statement to each IRA accountholder and each inheriting beneficiary having a balance as of December 31, 2016, to each IRA accountholder who died during 2016, and to any IRA accountholder who made a reportable contribution for 2016 during 2016.

This FMV statement must be prepared on a per plan agreement basis. That is, if a person would have two tra-

ditional IRAs and one Roth IRA, then he or she would need to be furnished three FMV statements these could be combined as long as there were three separate sections.

There must be a sentence on the statement informing the recipient that the FMV information (Balance as of December 31) will be furnished to the IRS when the 2016 Form 5498 will be filed with the IRS in May of 2017.

The IRA Custodian/trustee may, but is not required, to furnish contribution and earnings (including interest) information on the FMV statement for traditional IRAs, SEP-IRAs and Roth IRAs. However, a special rule applies for SIMPLE-IRAs. In the case of a SIMPLE-IRA, the IRA custodian must furnish a detailed statement listing all contributions (dates, and amounts) made by the employer on behalf of the SIMPLE-IRA accountholders.

Why is it required to furnish the FMV statement? A taxpayer who has basis within a traditional IRA, SEP-IRA or SIMPLE-IRA needs the FMV for purposes of completing the Form 8606 to determine the taxable portion of a distribution and the nontaxable portion.

The IRS may assess a penalty of \$50 for each failure to furnish the FMV statement for traditional IRAs, SEP-IRAs, and Roth IRAs. The penalty is \$100 PER DAY for failing to furnish the FMV statement for a SIMPLE-IRA.

RMD Notice for 2017.

An IRA custodian/trustee must furnish each traditional/SEP/SIMPLE-IRA accountholder who was born on or before June 30, 1937 and who has a balance as of December 31, 2016 with an RMD Notice. This RMD notice must be furnished to ALL such accountholders and not only to those individuals who attain age $70\frac{1}{2}$ in 2017. The RMD notice is not required to be furnished to an individual who only attains age 70 in 2017 (i.e. born between July 1, 1937 and December 31, 2017).

There is no requirement and no need to furnish an RMD Notice to a Roth IRA accountholder since the RMD rules do not apply to a Roth IRA accountholder while he or she is alive.

Three items must be set forth in the required RMD Notice.

First, the deadline applying to the IRA accountholder must be set forth. This will be December 31, 2017, for an individual who is older than age 70½ in 2017 or April 1, 2018, if the individual does attain age 70½ in 2017. Second, there must a sentence informing the individual that the IRS will be told on the 2016 Form 5498 that he or she is subject to the RMD rules for 2017. Third, the individual must be informed of his or her RMD amount for 2017 or that such amount has not been calculated, but will be if the individual contacts the IRA custodian/trustee and requests that the calculation be made.

Although the RMD laws apply to an inheriting IRA beneficiary of all four types of IRAs, current IRS rules do not require the IRA custodian/trustee to furnish an RMD notice. CWF strongly suggests you do so. The model IRS IRA forms do require that there be an RMD distribution made to an inheriting beneficiary. A beneficiary who fails to take an RMD will owe the 50% tax and may well argue that the custodian/trustee should pay some of this tax for its failure to notify or payout a RMD.

The IRS may assess a fine of \$50.00 for each time an IRA custodian/trustee would fail to furnish a complying RMD notice.

In summary, an IRA custodian/trustee must furnish the 2016 Form 1099-Rs, FMV statements, and 2017 RMD Notices by January 31, 2017 or it will be subject to being fined by the IRS.

Establishing a SEP IRA PLAN

As with any tax procedure, there are certain actions which must be taken in order for any business, including a one person business, to establish a Simplified Employee Pension Plan (SEP). If not properly established, the expected tax benefits will not be realized.

What must be done by the business?

First, there must be written plan agreement. Most businesses will choose to complete and execute the IRA model Form 5305-SEP, Simplified Employee Pension—Individual Retirement Accounts contribution Agreement.

A business may set up its SEP for a year (e.g. 2016) as late as the due date including extensions for the tax year. So, a business may establish a SEP for 2016 on

June 20, 2017, if it has an extension for its 2016 tax return.

The maximum contribution for 2016 is the lesser of: 25% of a person's qualifying compensation or \$53,000.

Second, provide certain information to each employee, if any. If no employees, then this information is not furnished. If there are employees, in general, they will be furnished a copy of the Form 5305-SEP and its instructions.

What must be done by each individual?

Third, each eligible employee, including the individual who is the sole proprietor or sole shareholder, must establish a SEP-IRA. A SEP-IRA is a standard traditional IRA to which a SEP contribution has been or will be made. See the standard traditional IRA application. The tax laws do not require a person who has an existing traditional IRA to set up a new SEP-IRA. Some financial institutions choose for administrative reasons to require a separate IRA, but the tax laws do not require it. If any employee would fail to have a SEP-IRA so the business did not make a SEP contribution for such employee, there would be no SEP and the expected tax benefits would not apply for the sponsoring business and other employees.

In summary, establishing a SEP is easy as long as the two steps above are completed for a one person business and the three steps are completed for a business with employees. Set forth are the rules we think are most important for an IRA custodian to follow in preparing the 2016 Form 1099-R.

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, and ZIP or foreign postal code		1 Gross distribution \$ _____		OMB No. 1545-0119 <div style="font-size: 2em; font-weight: bold;">2016</div> Form 1099-R		Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	
		2a Taxable amount \$ _____					
		2b Taxable amount not determined <input type="checkbox"/> Total distribution <input type="checkbox"/>					
PAYER'S federal identification number	RECIPIENT'S identification number	3 Capital gain (included in box 2a) \$ _____		4 Federal income tax withheld \$ _____		Copy 1 For State, City, or Local Tax Department	
RECIPIENT'S name Street address (including apt. no.) City or town, state or province, country, and ZIP or foreign postal code		5 Employee contributions /Designated Roth contributions or insurance premiums \$ _____		6 Net unrealized appreciation in employer's securities \$ _____			
		7 Distribution code(s)	IRA/SEP/SIMPLE <input type="checkbox"/>	8 Other	%		
		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.	FATCA filing requirement <input type="checkbox"/>	12 State tax withheld \$ _____		13 State/Payer's state no.		14 State distribution \$ _____
Account number (see instructions)			15 Local tax withheld \$ _____		16 Name of locality		17 Local distribution \$ _____

Form **1099-R** www.irs.gov/form1099r Department of the Treasury - Internal Revenue Service

Important Form 1099-R Rules for an IRA Custodian to Follow and Observations

- #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 \$250.00 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. The instructions are not very clear whether distributions (aggregated) less than \$10 for the year must be reported.
- #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 you are required to file multiple Form 1099-R's. However, the IRS encourages an IRA custodian to designate an account number for all Form 1099-Rs which it files.
- #6. Never enter a negative amount in any box on Form 1099-R.
- #7. Use the name and TIN of the individual or entity which receives-funds from the IRA. Normally, this will be the IRA accountholder. However, if you make a distribution to a beneficiary (whether an individual, trust or estate), then the 1099-R is prepared using the name and TIN of the beneficiary. You do not use the name of the decedent for payments made to beneficiaries after his or her death.

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- #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.
- #9. For a distribution from a traditional IRA boxes 1 and 2a are to be completed with the same amount unless an exception applies.
- #10. For a distribution from a Roth IRA, box 2a is to be left blank unless an exception applies.
- #11. An IRA custodian will generally check box 2b, taxable amount not determined. There will be times when it is not checked - withdrawal of an excess or current year contribution before the due date, a recharacterization and rolling funds from an IRA into an accepting employer plan.
- #12. The total distribution box is also found in 2b. An "X" is to be entered in this box when the amount shown in box 1 is a total distribution. The instructions for the total distribution section of box 2b are not as clear as they should be. It is doubtful if this box applies to IRA distributions; but the instructions are unclear, and an IRA custodian should complete the box pursuant to the instructions. In order for a person to use the favorable 10 year averaging or capital gain treatment he or she must receive a total distribution. Such treatment does not ever apply to any type of IRA distribution. If this box is not checked, the IRS will question any 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 2014 and the remainder in 2016 has not had a total distribution. Exception. If periodic or installment payments are made in more than one year, this box is to be marked for the year in which the final payment is made.
- #13 For a distribution of contributions plus earnings from an IRA under **section 408(d)(4)**, report the gross distribution in box 1, only the earnings in box 2a, and enter Code 8 or P, whichever is applicable, in box 7. Enter Code 1, 2, 4 or 7, if applicable.
- #14. For a distribution of contributions without earnings after the due date of the individual return, under section **408(d)(5)**, leave box 2a blank, and check the "Taxable amount not determined" check box in 2b. Use Code 1 or 7 in box 7 depending on the age of the accountholder.
- #15. For a distribution from an IRA that is payable to the trustee of, or is transferred to, an employer plan, or for an IRA recharacterization, enter 0 (zero) in box 2a.
- #16. In box 7 indicate the distribution code and enter an "X" in the **IRA/SEP/SIMPLE check box** if the distribution is from a traditional IRA, SEP IRA, or SIMPLE IRA. Do NOT check the box for a distributing from a Roth IRA or for an IRA recharacterization.
- #17. **Roth IRAs.** For a distribution from a Roth IRA, report the total distribution in box 1 and leave box 2a blank except in the case of an IRA revocation or account closure and a recharacterization. Use Code J, Q, or T as appropriate in box 7. Use Code 8 or P, if applicable, in box 7 with Code J. Do not combine Code Q or T with any other codes.
However, for the distribution of excess Roth IRA contributions, report the gross distribution in box 1 and only the earnings in box 2a. Enter Code J and Code 8 or P in box 7.
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.

Deadline for 2016 QCDs is 12/31/16

An IRA accountholder or an IRA beneficiary is eligible to make a qualified charitable distribution (QCD) for 2016 only if he or she is age 70½ or older as of the distribution and the QCD occurs by December 31, 2016. Turning age 70½ later in 2016 is insufficient.

The IRA custodian/trustee must prepare the check with the qualified charity named as the payee. An in-kind distribution to a charity does not qualify.

The instructions for the Form 1099-R indicate that there is no special reporting for a QCD. The IRA custodian/trustee prepares the Form 1099-R in the standard fashion; boxes 1 and 2a showing the gross distribution amount with the taxable amount not determined box (box 2b) being checked and it will be up to the individual to complete his or her tax return to show why the distribution is not taxable.

The individual will need to complete lines 15a and 15b on Form 1040 as follows. Enter the total distribution on line 15a. If the total amount distributed is a QCD, enter -0- on line 15b. If only part of the distribution is a QCD, enter the part that is not a QCD on line 15b unless Exception 2 applies to that part. Enter "QCD" next to line 15b.

A QCD is a distribution made directly by the trustee of a person's IRA (other than an on going SEP or SIMPLE-IRA) to an organization eligible to receive tax-deductible contributions (with certain exceptions). A person must have been at least age 70½ when the distribution was made. A person's total QCDs for the year cannot be more than \$100,000. (On a joint return, the person's spouse can also have a QCD of up to \$100,000.) The amount of the QCD is limited to the amount that would otherwise be included in income. If a person's IRA includes nondeductible contributions, the distribution is first considered to be paid out of otherwise taxable income. See Pub. 590 for details.

A person cannot claim a charitable contribution deduction for any QCD not included in income.

In addition, the IRS provides the individual with the following 2013 QCD reporting reminders.

- Don't deduct as a charitable contribution any amount of a QCD you exclude from your gross income.
- Report your 2013 QCDs on your 2013 Form 1040.
- File a 2013 Form 8606. *Nondeductible IRAs* (instructions) with your return if your 2013 QCD was from a:

- Roth IRA; or
- a traditional IRA, in which you had basis, and you received a 2013 distribution from any traditional IRA other than the 2013 QCD.

IRA Amendments Being Required For 2016-2017

The IRS last revised the model IRA Forms 5305, 5305-A, 5305-R and 5305-RA in March of 2002. Since then there have been numerous tax laws enacted with IRA changes. The IRS has given no written explanation as to why the IRA forms have not been amended. We have asked a number of times when the IRS would be revising their IRA forms, but to no avail. It is not a good thing that the IRS has not updated their forms.

When is it necessary for an IRA custodian/trustee to furnish an IRA amendment? Is it necessary or required to furnish one in 2016?

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

One may learn a tax lesson the hard way, if he or she adopts the position that an amendment is not required because the IRS has not said one is required. One must remember that the IRS has already stated in its governing IRA regulation (1.408-6(d)(4)(ii)(C)) when an IRA amendment is required. The regulation must be followed until the IRS revises it.

There are two types of amendments – one which amends the IRA plan agreement and one which amends the IRA disclosure statement. Regulation 1.408-6(4)(ii)(C) requires that an IRA amendment be furnished no later than the 30th day after the amendment is adopted or becomes effective.

The general rule in the governing IRA regulation is - a law change is enacted which impacts a provision found in the IRA plan agreement; the provision will be amended to implement the law change and the amendment will need to be communicated to the IRA accountholder or inheriting beneficiary.

When the IRS revises its model IRA forms, the amendment is considered to be mandatory or required. When

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a non-IRS change is made in the plan agreement by the financial institution (or the IRA vendor), the change may either be mandatory or not.

Mandatory changes deal with the tax code changes. For example, CWF has amended the Roth IRA plan agreement so that any person with funds in a traditional IRA is eligible to convert some or all of these funds to a traditional IRA even though he or she may have MAGI of more than \$100,000.

The IRS has not yet amended its model Roth IRAs (Forms 5305-R and 5305-RA) to remove the \$100,000 restriction. And the IRS has not given any guidance as to whether or not a conversion done in 2010 or later qualifies or doesn't qualify since Form 5305-R and 5305-RA state that the custodian/ trustee may not accept a conversion contribution if the person has a MAGI greater than the \$100,000.

The standard IRS rule for IRAs/pensions has always been - the plan document must authorize the action. For this reason, even though the IRS has not amended the Roth IRA forms, CWF has.

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

We at CWF have revised our IRA plan agreement forms and written the 2016-2017 IRA amendments to include the following revisions.

- 1. The Internal Revenue Service (IRS) now authorizes you or any other person who has missed the 60-day rollover deadline to still make a rollover contribution as long as you furnish the IRA custodian/trustee with a self-certification late rollover contribution form . See section 4.4F(1)**
- 2. In 2016, the Department of Labor (DOL) revised its regulation covering prohibited transactions. The DOL has furnished a new definition of "fiduciary." This definition is effective as of April 10, 2017. There is a transitional defi**

inition applying prior to April 10, 2017. The DOL has also authorized some new prohibited transaction exemptions. See section 1.17.

- 3 For 2016 and 2017, the maximum IRA contribution limit is \$5,500 if you are under age 50 as of December 31 of the applicable year, and \$6,500 if you are age 50 or older as of the applicable December 31.**
- 4. The income limits used to determine if you are eligible to claim a tax deduction for your traditional IRA contribution and minor changes. See pages 21-23 for the discussion.**
- 5. The income limits used to determine if you are eligible to claim or use the Retirement Savings Contributions Credit only had minor changes. See pages 24-25 for the discussion.**
- 6. Qualified Charitable Contributions/Distributions (QCDs) are now permanent under our federal income tax laws.**
- 7 As of December 19, 2015, SIMPLE-IRAs may accept rollover contributions arising from distributions from 401(k) plans, 403(b) plans, 457(b) plans and traditional IRAs and SEP-IRAs. Such contribution can only be made after the 2-year period described in section 72(t)(6) has been met.**
- 8. Effective January 1, 2015, a new rollover rule went into effect. This change restricts an IRA accountholder to rolling over only one distribution in a 12-month period regardless of how many IRAs he or she maintains.**
- 9 You should be aware that IRA distributions you take may disqualify you for the premium tax credit as authorized under the Affordable Care Act.**
- 10 In 2016 there are new rules regarding an IRA custodian's duty to correct a Form 1099R containing errors. See section 4.7 for a discussion.**

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

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