

Part IV. Items of General Interest

Interim Guidance on Roth IRAs

Announcement 97-122

The Service is issuing two model Roth IRA Forms, 5305-R and 5305-RA, for use by trustees and custodians, respectively, beginning in 1998. In addition, the following interim guidance is provided for prototype sponsors and individual contributors to Roth IRAs established under § 408A of the Internal Revenue Code in response to questions from the public.

Background

Individuals are permitted to make deductible and nondeductible contributions to individual retirement accounts and annuities described in § 408(a) or (b), respectively (Traditional IRAs).

The Taxpayer Relief Act of 1997, Pub. L. 105-34, added § 408A creating Roth IRAs beginning in 1998. The rules that apply to Roth IRAs and Traditional IRAs are generally the same, except as modified by § 408A. A Roth IRA must be designated at the time of establishment as a Roth IRA. Contributions to a Roth IRA are not deductible and qualified distributions are not includible in gross income.

Interim Guidance

° Model forms. - New Form 5305-R, Roth Individual Retirement Trust Account, and Form 5305-RA, Roth Individual Retirement Custodial Account, will serve as Service-approved model forms for use by financial institutions to offer Roth IRAs to their customers. These forms can be downloaded from the IRS homepage at www.irs.ustreas.gov.

° Separate trusts. - Contributions to a Roth IRA must be maintained as a separate trust, custodial account or annuity from contributions to a Traditional IRA. Separate accounting within a single trust, custodial account or annuity is not permitted.

° Opinion letters. - The Service is not presently accepting submissions for opinion letters on prototype Roth IRAs, but will issue procedures in the future for requesting such opinion letters.

° Combined documents. - The Service will permit a prototype sponsor to combine a Roth IRA and a Traditional IRA in the same document provided that (1) the separate trust requirement, above, is satisfied and (2) the document, as completed by the owner,

clearly indicates whether it is to be used as a Traditional IRA or as a Roth IRA. This must be done in a way that makes clear that designation as one type of IRA precludes its designation as the other type of IRA.

Transitional Relief

The Service will provide transitional relief for sponsors of Roth IRAs and their customers that is similar to the transition relief provided for users of documents establishing SIMPLE IRAs that had not been pre-approved by the Service. See section 7.01 of Rev. Proc. 97-29, 1997-24, I.R.B. 9. The Simple IRA transition relief was conditioned on the prototype sponsors who furnished the documents having them subsequently approved by the Service and meeting certain other conditions. Transition relief will also be conditioned on the document, or associated written material, clearly designating the trust, custodial account or annuity as a Roth IRA at the time of establishment.

Technical Corrections

The House of Representatives has passed technical corrections legislation (H.R. 2645) affecting, among other things, the taxability of distributions from Roth IRAs. The legislation, if enacted, would be effective January 1, 1998. In light of this pending legislation, prototype sponsors may wish to consider maintaining, or encouraging individuals to maintain, qualified rollover contributions (described in § 408A(e)) in separate Roth IRAs from Roth IRAs containing regular Roth IRA contributions (described in § 408A(c)(2)).

Paperwork Reduction Act

The collection of information contained in this announcement has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1568.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this announcement is in the section headed "Interim Guidance." This information is required to comply with § 302 of the Taxpayer Relief Act of 1997 in order to meet the statutory requirements for establishing a Roth IRA. The collection of information is required to obtain a benefit. The likely respondents are businesses or other for-profit institutions, and not-for-profit institutions.

The estimated total annual reporting burden is 8,000 hours.

The estimated annual burden per respondent varies from 0.5 hours to 4 hours, depending on individual circumstances, with an estimated average of 2 hours. The estimated number of respondents is 4,000.

The estimated annual frequency of responses is one per respondent.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.