



Instructions for Form 5329

Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

What's New

The IRS has created a page on IRS.gov for information about Form 5329 and its instructions, at www.irs.gov/form5329. Information about any future developments affecting Form 5329 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

Use Form 5329 to report additional taxes on:

- IRAs,
- Other qualified retirement plans,
- Modified endowment contracts,
- Coverdell ESAs,
- QTPs,
- Archer MSAs, or
- HSAs.

Who Must File

You must file Form 5329 if any of the following apply.

- You received an early distribution from a Roth IRA, the amount on line 23 of Form 8606, Nondeductible IRAs, is more than zero, and you are required to enter an amount that is more than zero on Form 5329, line 1 (see *Distributions from Roth IRAs*, later).
- You received an early distribution subject to the tax on early distributions from a qualified retirement plan (other than a Roth IRA). However, if distribution code 1 is correctly shown in box 7 of all your Forms 1099-R, and you owe the additional tax on each Form 1099-R, you do not have to file Form 5329. Instead, see the instructions for Form 1040, line 58, or Form 1040NR, line 56, for how to report the additional 10% tax directly on that line.
- You received an early distribution subject to the tax on early distributions from a qualified retirement plan (other than a Roth IRA), you meet an exception to the tax on early distributions, and distribution code 1 is shown in box 7 of Form 1099-R.
- You received an early distribution subject to the tax on early distributions from a qualified retirement plan (other than a Roth IRA), you meet an exception to the tax on early distributions from the list on page 3 but box 7 of your Form 1099-R does not

indicate an exception or the exception does not apply to the entire distribution.

- You received taxable distributions from Coverdell ESAs or QTPs.
- The contributions for 2011 to your traditional IRAs, Roth IRAs, Coverdell ESAs, Archer MSAs, or HSAs exceed your maximum contribution limit, or you had a tax due from an excess contribution on line 17, 25, 33, 41, or 49 of your 2010 Form 5329.
- You did not receive the minimum required distribution from your qualified retirement plan.



TIP *If you rolled over part or all of a distribution from a qualified retirement plan, the part rolled over is not subject to the additional tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b; Form 1040A, lines 11a and 11b or 12a and 12b; or Form 1040NR, lines 16a and 16b or 17a and 17b, for how to report the rollover.*

When and Where To File

File Form 5329 with your 2011 Form 1040 or Form 1040NR by the due date, including extensions, of your Form 1040 or Form 1040NR.

If you do not have to file a 2011 income tax return, complete and file Form 5329 by itself at the time and place you would be required to file Form 1040 or Form 1040NR. Be sure to include your address on page 1 of the form and your signature and the date on page 2 of the form. Enclose, but do not attach, a check or money order payable to "United States Treasury" for any taxes due. Write your SSN and "2011 Form 5329" on the check. For information on other payment options, including credit or debit card payments, see the instructions for Form 1040 or Form 1040NR, or go to IRS.gov.

Prior tax years. If you are filing Form 5329 for a prior year, you must use the prior year's version of the form. If you do not have any other changes and have not previously filed a federal income tax return for the prior year, file the prior year's version of Form 5329 by itself (discussed earlier). If you have other changes, file Form 5329 for the prior year with Form 1040X, Amended U.S. Individual Income Tax Return.

Definitions

Qualified retirement plan. A qualified retirement plan includes:

- A qualified pension, profit-sharing, or stock bonus plan (including a 401(k) plan),
- A tax-sheltered annuity contract,
- A qualified annuity plan, and
- An IRA.

For purposes of the additional tax on early distributions, an eligible governmental section 457 deferred compensation plan is treated as a qualified retirement plan, but only to the extent that a distribution is attributable to an amount transferred from a qualified retirement plan (defined above).

Note. Modified endowment contracts are not qualified retirement plans.

Traditional IRAs. For purposes of Form 5329, a traditional IRA is any IRA, including a simplified employee pension (SEP) IRA, other than a SIMPLE IRA or Roth IRA.

Early distribution. Generally, any distribution from your IRA, other qualified retirement plan, or modified endowment contract before you reach age 59½ is an early distribution.

Rollover. Generally, a rollover is a tax-free distribution of assets from one qualified retirement plan that is reinvested in another plan or the same plan. Generally, you must complete the rollover within 60 days of receiving the distribution. Any taxable amount not rolled over must be included in income and may be subject to the additional tax on early distributions.

You can roll over (convert) amounts from a qualified retirement plan to a Roth IRA. Any amount rolled over to a Roth IRA is subject to the same rules for converting a traditional IRA to a Roth IRA. You must include in your gross income distributions from a qualified retirement plan that you would have had to include in income if you had not rolled them into a Roth IRA. Generally, the 10% tax on early distributions does not apply. For more information, see chapter 2 of Pub. 590.

The IRS may waive the 60-day requirement if failing to waive it would be against equity or good conscience, such as situations where a casualty, disaster, or other events beyond your reasonable control prevented you from meeting the 60-day requirement. Also, the 60-day period may be extended if

you had a frozen deposit. See Pub. 590 for details.

In-plan Roth rollover. If you are a participant in a 401(k), 403(b), or governmental 457(b) plan, your plan may now permit you to roll over amounts from those plans to a designated Roth account within the same plan. The rollover of any untaxed amounts must be included in income. Generally, the 10% tax on early distributions does not apply. For more information, see Pub. 575.

Compensation. Compensation includes wages, salaries, tips, bonuses, and other pay you receive for services you perform. It also includes sales commissions, commissions on insurance premiums, and pay based on a percentage of profits. It includes net earnings from self-employment, but only for a trade or business in which your personal services are a material income-producing factor.

For IRAs, treat nontaxable combat pay and any differential wage payments, and all taxable alimony received under a decree of divorce or separate maintenance as compensation.

Compensation does not include any amounts received as a pension or annuity and does not include any amount received as deferred compensation.

Taxable compensation is your compensation that is included in gross income reduced by any deductions on Form 1040 or Form 1040NR, lines 27 and 28, but not by any loss from self-employment.

Additional Information

See Pub. 590, Individual Retirement Arrangements; Pub. 560, Retirement Plans for Small Business; Pub. 575, Pension and Annuity Income; Pub. 969, Health Savings Accounts and Other Tax-Favored Health Plans; Pub. 970, Tax Benefits for Education; and Pub. 4492-B, Information for Affected Taxpayers in the Midwestern Disaster Areas.

Specific Instructions

Joint returns. If both you and your spouse are required to file Form 5329, complete a separate form for each of you. Include the combined tax on Form 1040, line 58.

Amended returns. If you are filing an amended 2011 Form 5329, check the box at the top of page 1 of the form. Do not use the 2011 Form 5329 to amend your return for any other year. For information about amending a Form 5329 for a prior year, see *Prior tax years*, earlier.

Part I—Additional Tax on Early Distributions

In general, if you receive an early distribution (including an involuntary cashout) from an IRA, other qualified retirement plan, or modified endowment contract, the part of the distribution included in income generally is subject to an additional 10% tax. But see *Distributions from a designated Roth account* and *Distributions from Roth IRAs*, later.

The additional tax on early distributions does not apply to any of the following:

- A qualified HSA funding distribution from an IRA (other than a SEP or SIMPLE IRA). See Pub. 969 for details.
- A distribution from a traditional or SIMPLE IRA that was converted to a Roth IRA.
- A rollover from a qualified retirement plan to a Roth IRA.
- In-plan rollover to a designated Roth account.
- A distribution of certain excess IRA contributions (see the instructions for line 15, later, and the instructions for line 23, later).

Note. Any related earnings withdrawn with excess contributions are subject to the additional tax on early distributions if you were under age 59½ at the time of the distribution.

- A distribution of excess contributions from a qualified cash or deferred arrangement.
- A distribution of excess aggregate contributions to meet nondiscrimination requirements for employee contributions and matching employer contributions.
- A distribution of excess deferrals.
- A distribution from an eligible governmental section 457 deferred compensation plan to the extent the distribution is not attributable to an amount transferred from a qualified retirement plan (excluding an eligible section 457 deferred compensation plan).

See the instructions for line 2, later, for other distributions that are not subject to the tax.

Line 1

Enter the amount of early distributions included in income that you received from:

- A qualified retirement plan, including earnings on withdrawn excess contributions to your IRAs included in income in 2011, or
- A modified endowment contract entered into after June 20, 1988.

Certain prohibited transactions, such as borrowing from your IRA or pledging your IRA assets as security for a loan, are considered to be distributions and may also cause you to owe the additional tax on early distributions. See Pub. 590 for details.

Distributions from a designated Roth account. If you received an early distribution from your designated Roth account, include on line 1 the amount of the distribution that you must include in your income. You will find this amount in box 2a of your 2011 Form 1099-R. If you made an in-plan Roth rollover in 2010 or 2011, you may also need to include a recapture amount on line 1 (discussed next).

TIP If you did not make an in-plan Roth rollover in 2010 or 2011, you only need to include on line 1 of this form the amount from box 2a of the 2011 Form 1099-R reporting the early distribution.

Recapture amount subject to the additional tax on early distributions. If you made an in-plan Roth rollover in 2010 or 2011 and you received an early distribution for 2011, the recapture amount to include on line 1 is a portion of amounts you rolled over in 2010 and 2011.

The recapture amount that you must include on line 1 will not exceed the amount of your early distribution; and, for purposes of determining this recapture amount, a rollover amount (or portion of a rollover) will only be allocated to an early distribution once.

For more information about the recapture amount for distributions from a designated Roth account, including how to calculate it, see Pub. 575.

Distributions from Roth IRAs. If you received an early distribution from your Roth IRAs, include on line 1 the part of the distribution that you must include in your income. You will find this amount on line 25 of your 2011 Form 8606. You will also need to include on line 1 the following amounts.

- A qualified first-time homebuyer distribution from line 20 of your 2011 Form 8606. Also include this amount on line 2 and enter exception number 09.
- Recapture amounts attributable to any conversions or rollovers to your Roth IRAs in 2007, 2008, 2009, 2010, or 2011. See *Recapture amount subject to the additional tax on early distributions* below.

TIP If you did not convert or roll over an amount to your Roth IRAs in 2007 through 2011, or have a first-time homebuyer distribution, you only need to include the amount from line 25 of your 2011 Form 8606 on line 1 of this form.

Recapture amount subject to the additional tax on early distributions. If you converted or rolled over an amount to your Roth IRAs in 2007, 2008, 2009, 2010, or 2011 and you received an early distribution for 2011, the recapture amount to include on line 1 is the amount, if any, of the early distribution allocated to the taxable portion of your 2007 through 2011 conversions or rollovers.

Generally, an early distribution is allocated to your Roth IRA contributions

first, then to your conversions and rollovers on a first-in, first-out basis. The recapture amount is the amount of the conversion or rollover that was subject to tax in the year of the conversion or the rollover. An early distribution allocated to a conversion or rollover is first allocated to the taxable portion.

The recapture amount that you must include on line 1 will not exceed the amount of your early distribution; and, for purposes of determining this recapture amount, a contribution, conversion, or rollover amount (or portion thereof) will only be allocated to an early distribution once.

For more information about the recapture amount for distributions from a Roth IRA, including how to calculate it, see Pub. 590. Also, see the *Example* below that illustrates a situation where a taxpayer must include a recapture amount on line 1.

Example. You converted \$20,000 from a traditional IRA to a Roth IRA in 2007 and converted \$10,000 in 2008. Your 2007 Form 8606 had \$5,000 on line 17 and \$15,000 on line 18 and your 2008 Form 8606 had \$3,000 on line 17 and \$7,000 on line 18. You made Roth IRA contributions of \$2,000 for 2007 and 2008. You did not make any Roth IRA conversions or contributions for 2009 through 2011, or take any Roth IRA distributions before 2011.

On July 9, 2011, at age 53, you took a \$33,000 distribution from your Roth IRA. Your 2011 Form 8606 shows \$33,000 on line 19; \$29,000 on line 23 (\$33,000 minus \$4,000 for your contributions on line 22) and \$0 on line 25 (\$29,000 minus your basis in conversions of \$30,000) and line 36.

First, \$4,000 of the \$33,000 is allocated to your 2011 Form 8606, line 22; then \$15,000 to your 2007 Form 8606, line 18; \$5,000 to your 2007 Form 8606, line 17; and \$7,000 to your 2008 Form 8606, line 18. The remaining \$2,000 is allocated to the \$3,000 on your 2008 Form 8606, line 17. On line 1, enter \$22,000 (\$15,000 allocated to your 2007 Form 8606, line 18, plus the \$7,000 that was allocated to your 2008 Form 8606, line 18).

If you take a Roth IRA distribution in 2012, the first \$1,000 will be allocated to the \$1,000 remaining from your 2008 Form 8606, line 17, and will not be subject to the additional tax on early distributions.

Additional information. For more details, see *Are Distributions Taxable?* in Pub. 590.

Line 2

The additional tax on early distributions does not apply to the distributions described below. Enter on line 2 the amount that can be excluded. In the space provided, enter the applicable exception number (01-12).

No. Exception

- 01 Qualified retirement plan distributions (does not apply to IRAs) you receive after separation from service in or after the year you reach age 55 (age 50 for qualified public safety employees).
- 02 Distributions made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from an employer plan, payments must begin after separation from service).
- 03 Distributions due to total and permanent disability.
- 04 Distributions due to death (does not apply to modified endowment contracts).
- 05 Qualified retirement plan distributions up to (1) the amount you paid for unreimbursed medical expenses during the year minus (2) 7.5% of your adjusted gross income for the year.
- 06 Qualified retirement plan distributions made to an alternate payee under a qualified domestic relations order (does not apply to IRAs).
- 07 IRA distributions made to unemployed individuals for health insurance premiums.
- 08 IRA distributions made for higher education expenses.
- 09 IRA distributions made for purchase of a first home, up to \$10,000.
- 10 Distributions due to an IRS levy on the qualified retirement plan.
- 11 Qualified distributions to reservists while serving on active duty for at least 180 days.
- 12 Other (see *Other* below). Also, enter this code if more than one exception applies.

Other. The following exceptions also apply.

- Distributions incorrectly indicated as early distributions by code 1, J, or S in box 7 of Form 1099-R. Include on line 2 the amount you received when you were age 59½ or older.
- Distributions from a section 457 plan, which are not from a rollover from a qualified retirement plan.
- Distributions from a plan maintained by an employer if:
 1. You separated from service by March 1, 1986;
 2. As of March 1, 1986, your entire interest was in pay status under a written election that provides a specific schedule for distribution of your entire interest; and
 3. The distribution is actually being made under the written election.
- Distributions that are dividends paid with respect to stock described in section 404(k).
- Distributions from annuity contracts to the extent that the distributions are allocable to the investment in the contract before August 14, 1982.

For additional exceptions that apply to annuities, see Pub. 575.

Line 4

If any amount on line 3 was a distribution from a SIMPLE IRA received within 2 years from the date you first participated in the SIMPLE IRA plan, you must multiply that amount by 25% instead of 10%. These distributions are included in boxes 1 and 2a of Form 1099-R and are designated with code S in box 7.

Part II—Additional Tax on Certain Distributions From Education Accounts

Line 6

This tax does not apply to distributions that are includible in income if:

- Made due to the death or disability of the beneficiary;
- Made on account of a tax-free scholarship, allowance, or payment described in section 25A(g)(2);
- Made because of attendance by the beneficiary at a U.S. military academy. This exception applies only to the extent that the distribution does not exceed the costs of advanced education (as defined in title 10 of the U.S. Code) at the academy; or
- Included in income because you used the qualified education expenses to figure the American opportunity and lifetime learning credits.

Enter on line 6 the portion of line 5 that is excluded.

Part III—Additional Tax on Excess Contributions to Traditional IRAs

If you contributed more for 2011 than is allowable or you had an amount on line 17 of your 2010 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2011 excess contributions (see the instructions for line 15, later).

Line 9

Enter the amount from line 16 of your 2010 Form 5329 only if the amount on line 17 of your 2010 Form 5329 is more than zero.

Line 10

If you contributed less to your traditional IRAs for 2011 than your contribution limit for traditional IRAs, enter the difference.

If you are not married filing jointly, your contribution limit for traditional IRAs is the smaller of your taxable compensation (defined earlier) or \$5,000 (\$6,000 if age 50 or older at the end of 2011). If you are married filing jointly, your contribution limit is generally \$5,000 (\$6,000 if age 50 or older at the end of 2011) and your

spouse's contribution limit is \$5,000 (\$6,000 if age 50 or older at the end of 2011). But if the combined taxable compensation for you and your spouse is less than \$10,000 (\$11,000 if one spouse is 50 or older at the end of 2011; \$12,000 if both spouses are 50 or older at the end of 2011), see *How Much Can Be Contributed?* in Pub. 590 for special rules.

Also include on line 11a or 11b (line 11 for Form 1040NR) of the IRA Deduction Worksheet in the instructions for Form 1040 or Form 1040NR, line 32, the smaller of (a) Form 5329, line 10, or (b) the excess, if any, of Form 5329, line 9, over the sum of Form 5329, lines 11 and 12.

Line 11

Enter on line 11 any withdrawals from your traditional IRAs that are included in your income. Do not include any withdrawn contributions reported on line 12.

Line 12

Enter any excess contributions to your traditional IRAs for 1976 through 2009 that you had returned to you in 2011 and any 2010 excess contributions that you had returned to you in 2011 after the due date (including extensions) of your 2010 income tax return, that are included on line 9, if:

- You did not claim a deduction for the excess contributions and no traditional IRA deduction was allowable (without regard to the modified AGI limitation) for the excess contributions, and
- The total contributions to your traditional IRAs for the tax year for which the excess contributions were made were not more than the amounts shown in the following table.

Year(s)	Contribution limit	Contribution limit if age 50 or older at the end of the year
2008 through 2010	\$5,000	\$6,000
2007 or 2006	\$4,000	\$5,000
2005	\$4,000	\$4,500
2002 through 2004	\$3,000	\$3,500
1997 through 2001	\$2,000	—
before 1997	\$2,250	—

If the total contributions for the year included employer contributions to a SEP, increase that amount by the smaller of the amount of the employer contributions or:

2009 or 2010	\$49,000
2008	\$46,000
2007	\$45,000
2006	\$44,000
2005	\$42,000
2004	\$41,000
2003 or 2002	\$40,000
2001	\$35,000
before 2001	\$30,000

Line 15

Enter the excess of your contributions to traditional IRAs for 2011 (unless withdrawn—see below) over your contribution limit for traditional IRAs. See the instructions for line 10, earlier, to figure your contribution limit for traditional IRAs. Any amount you contribute for the year in which you reach age 70½ or a later year is an excess contribution because your contribution limit is zero. Do not include rollovers in figuring your excess contributions.

You can withdraw some or all of your excess contributions for 2011 and they will not be treated as having been contributed if:

- You make the withdrawal by the due date, including extensions, of your 2011 tax return,
- You do not claim a traditional IRA deduction for the withdrawn contributions, and
- You withdraw any earnings on the withdrawn contribution and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59½ at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329 for the year in which you report the earnings.

If you timely filed your return without withdrawing the excess contributions, you can still make the withdrawal no later than 6 months after the due date of your tax return, excluding extensions. If you do, file an amended return with "Filed pursuant to section 301.9100-2" written at the top. Report any related earnings for 2011 on the amended return and include an explanation of the withdrawal. Make any other necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Part IV—Additional Tax on Excess Contributions to Roth IRAs

If you contributed more to your Roth IRA for 2011 than is allowable or you had an amount on line 25 of your 2010 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2011 excess contributions (see the instructions for line 23, later).

Line 18

Enter the amount from line 24 of your 2010 Form 5329 only if the amount on line 25 of your 2010 Form 5329 is more than zero.

Line 19

If you contributed less to your Roth IRAs for 2011 than your contribution limit for Roth IRAs, enter the difference.

Your contribution limit for Roth IRAs is generally your contribution limit for traditional IRAs (see the instructions for line 10, earlier) reduced by the amount you contributed to traditional IRAs. But your contribution limit for Roth IRAs may be further reduced or eliminated if your modified AGI for Roth IRA purposes is over:

- \$169,000 if married filing jointly or qualifying widow(er),
- \$0 if married filing separately and you lived with your spouse at any time in 2011, or
- \$107,000 for any other taxpayer.

See Pub. 590 for details.

Line 20

Generally, enter the amount from Form 8606, line 19, plus any qualified distributions. But if you withdrew the entire balance of all your Roth IRAs, do not enter less than the amount on Form 5329, line 18 (see *Example* below).

Example. You contributed \$1,000 to a Roth IRA in 2009, your only contribution to Roth IRAs. In 2011, you discovered you were not eligible to contribute to a Roth IRA in 2009. On September 9, 2011, you withdrew \$800, the entire balance in the Roth IRA. You must file Form 5329 for 2009 and 2010 to pay the additional taxes for those years. When you complete Form 5329 for 2011, you enter \$1,000 (not \$800) on line 20, because you withdrew the entire balance.

Line 23

Enter the excess of your contributions to Roth IRAs for 2011 (unless withdrawn—see below) over your contribution limit for Roth IRAs (see the instructions for line 19, earlier).

Do not include rollovers from another Roth IRA or designated Roth account in figuring your excess contributions.

You can withdraw some or all of your excess contributions for 2011 and they will not be treated as having been contributed if:

- You make the withdrawal by the due date, including extensions, of your 2011 tax return, and
- You withdraw any earnings on the withdrawn contributions and include the earnings in gross income (see the Instructions for Form 8606 for details). Also, if you had not reached age 59½ at the time of the withdrawal, include the earnings as an early distribution on line 1 of Form 5329 for the year in which you report the earnings.

Note. A Form 5329 is not required if the excess Roth IRA contributions are not treated as having been contributed and you do not have any earnings to report as early distributions on the form.

If you timely filed your return without withdrawing the excess contributions, you can still make the withdrawal no later than 6 months after the due date of your tax return, excluding extensions. If you do, file an amended return with "Filed pursuant to section 301.9100-2"

written at the top. Report any related earnings for 2011 on the amended return and include an explanation of the withdrawal. Make any other necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Part V—Additional Tax on Excess Contributions to Coverdell ESAs

If the contributions to your Coverdell ESAs for 2011 were more than is allowable or you had an amount on line 33 of your 2010 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2011 excess contributions (see the instructions for line 31, later).

Line 26

Enter the amount from line 32 of your 2010 Form 5329 only if the amount on line 33 of your 2010 Form 5329 is more than zero.

Line 27

Enter the excess, if any, of the maximum amount that can be contributed to your Coverdell ESAs for 2011 (see the instructions for line 31 below) over the amount actually contributed for 2011.

Line 28

Enter your total distributions from Coverdell ESAs in 2011. Do not include rollovers or returned excess contributions.

Line 31

Enter the excess of the contributions to your Coverdell ESAs for 2011 (not including rollovers) over your contribution limit for Coverdell ESAs. Your contribution limit is the smaller of \$2,000 or the sum of the maximum amounts allowed to be contributed by the contributor(s) to your Coverdell ESAs. The maximum contribution may be limited based on the contributor's modified AGI. See Pub. 970 for details.

You can withdraw some or all of the excess contributions for 2011 and they will not be treated as having been contributed if:

- You make the withdrawal before June 1, 2012, and
- You also withdraw any income earned on the withdrawn contributions and include the earnings in gross income for the year in which the contribution was made.

If you filed your return without withdrawing the excess contributions, you can still make the withdrawal, but it must be made before June 1, 2012. If you do, file an amended return. Report any related earnings for 2011 on the amended return and include an

explanation of the withdrawal. Make any other necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Part VI—Additional Tax on Excess Contributions to Archer MSAs

If you or your employer contributed more to your Archer MSA for 2011 than is allowable or you had an amount on line 41 of your 2010 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2011 excess contributions (see the instructions for line 39, later).

Line 34

Enter the amount from line 40 of your 2010 Form 5329 only if the amount on line 41 of your 2010 Form 5329 is more than zero.

Line 35

If your contribution limit for your Archer MSAs (the smaller of line 3 or line 4 of Form 8853, Archer MSAs and Long-Term Care Insurance Contracts) is greater than the contributions to your Archer MSAs for 2011, enter the difference on line 35. Also include on your 2011 Form 8853, line 5, the smaller of:

- Form 5329, line 35, or
- The excess, if any, of Form 5329, line 34, over Form 5329, line 36.

Line 39

Enter the excess of your contributions to your Archer MSA for 2011 (from Form 8853, line 2) over your contribution limit (the smaller of line 3 or line 4 of Form 8853). Also include on line 39 any excess contributions your employer made. See the Instructions for Form 8853 for details.

However, you can withdraw some or all of the excess contributions for 2011 and they will not be treated as having been contributed if:

- You make the withdrawal by the due date, including extensions, of your 2011 tax return, and
- You withdraw any income earned on the withdrawn contributions and include the earnings in gross income for the year in which you receive the withdrawn contributions and earnings.

Include the withdrawn contributions and related earnings on Form 8853, lines 6a and 6b.

If you timely filed your return without withdrawing the excess contributions, you can still make the withdrawal no later than 6 months after the due date of your tax return, excluding extensions. If you do, file an amended return with "Filed pursuant to section 301.9100-2" written at the top. Report any related

earnings for 2011 on the amended return and include an explanation of the withdrawal. Make any other necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Part VII—Additional Tax on Excess Contributions to Health Savings Accounts (HSAs)

If you, someone on your behalf, or your employer contributed more to your HSAs for 2011 than is allowable or you had an amount on line 49 of your 2010 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2011 excess contributions (see the instructions for line 47, later).

Line 43

If your contribution limit for your HSAs (line 12 of Form 8889, Health Savings Accounts (HSAs)) is greater than the contributions you made to your HSAs (or those made on your behalf) for 2011 (Form 8889, line 2), enter the difference on line 43. Also include on your 2011 Form 8889, line 13, the smaller of:

- Form 5329, line 43, or
- The excess, if any, of Form 5329, line 42, over Form 5329, line 44.

Line 47

Enter the excess of your contributions (including those made on your behalf) to your HSAs for 2011 (Form 8889, line 2) over your contribution limit (Form 8889, line 12). Also include on line 47 any excess contributions your employer made. See the instructions for Form 8889 for details.

However, you can withdraw some or all of the excess contributions for 2011 and they will not be treated as having been contributed if:

- You make the withdrawal by the due date, including extensions, of your 2011 return, and
- You withdraw any income earned on the withdrawn contributions and include the earnings in gross income for the year in which you receive the withdrawn contributions and earnings.

Include the withdrawn contributions and related earnings on Form 8889, lines 14a and 14b.

If you timely filed your return without withdrawing the excess contributions, you can still make the withdrawal no later than 6 months after the due date of your tax return, excluding extensions. If you do, file an amended return with "Filed pursuant to section 301.9100-2" written at the top. Report any related earnings for 2011 on the amended return and include an explanation of the withdrawal. Make any other necessary changes on the amended return (for

example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Part VIII—Additional Tax on Excess Accumulation in Qualified Retirement Plans (Including IRAs)

You owe this tax if you do not receive the required minimum distribution from your qualified retirement plan, including an IRA or an eligible section 457 deferred compensation plan. The additional tax is 50% of the excess accumulation—the difference between the amount that was required to be distributed and the amount that was actually distributed. The tax is due for the tax year that includes the last day by which the minimum required distribution is required to be taken.

Required Distributions

IRA (other than a Roth IRA). You must start receiving distributions from your IRA by April 1 of the year following the year in which you reach age 70½. At that time, you can receive your entire interest in the IRA or begin receiving periodic distributions. If you choose to receive periodic distributions, you must receive a minimum required distribution each year. You can figure the minimum required distribution by dividing the account balance of your IRAs (other than Roth IRAs) on December 31 of the year preceding the distribution by the applicable life expectancy. For applicable life expectancies, see Pub. 590.

If the trustee, custodian, or issuer of your IRA informs you of the minimum required distribution, you can use that amount.

If you have more than one IRA, you can take the minimum required distribution from any one or more of the individual IRAs.

For more details on the minimum distribution rules (including examples), see Pub. 590.



A qualified charitable distribution will count towards your required minimum distribution. See Pub. 590 for more information.

Roth IRA. There are no minimum required distributions during the lifetime of the owner of a Roth IRA. Following the death of the Roth IRA owner, required distribution rules apply to the beneficiary. See Pub. 590 for details.

Qualified retirement plans (other than IRAs) and eligible section 457 deferred compensation plans. In general, you must begin receiving distributions from your plan no later than April 1 following the later of (a) the year in which you reach age 70½ or (b) the year in which you retire.

Exception. If you owned more than 5% of the employer maintaining the plan, you must begin receiving distributions no later than April 1 of the year following the year in which you reach age 70½, regardless of when you retire.

Your plan administrator should figure the amount that must be distributed each year.

Waiver of tax. The IRS can waive part or all of this tax if you can show that any shortfall in the amount of distributions was due to reasonable error and you are taking reasonable steps to remedy the shortfall. If you believe you qualify for this relief, attach a statement of explanation and file Form 5329 as follows.

1. Complete lines 50 and 51 as instructed.
2. Enter "RC" and the amount you want waived in parentheses on the dotted line next to line 52. Subtract this amount from the total shortfall you figured without regard to the waiver, and enter the result on line 52.
3. Complete line 53 as instructed. You must pay any tax due that is reported on line 53.

The IRS will review the information you provide and decide whether to grant your request for a waiver.

Privacy Act and Paperwork

Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need this information to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information if you made certain contributions or received certain distributions from qualified plans, including IRAs, and other tax-favored accounts. Our legal right to ask for the information requested on this form is sections 6001, 6011, 6012(a), and 6109 and their regulations. If you do not provide this information, or you provide incomplete or false information, you may be subject to penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. However, we may give this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.
