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Notice 2002-27

Notice 2002-27; 2002-1 C.B. 814; 2002 IRB LEXIS 180; 2002-18 I.R.B. 814

May 6, 2002

[*1]

SUBJECT MATTER: Reporting Required Minimum Distributions From IRAs

TEXT:

PURPOSE

This notice provides guidance on the reports that trustees, custodians, and issuers are required to make with respect to required minimum distributions from individual retirement accounts and annuities (IRAs).

BACKGROUND

Section 401 (a) (9) (A) of the Internal Revenue Code provides rules for required minimum distributions from qualified plans during the life of an employee and *§ 401 (a) (9) (B)* provides rules for required minimum distributions after the death of an employee. *Section 408 (a) (6) and (b) (3)* provides that rules similar to the rules of *§ 401 (a) (9)* apply to IRA distributions. Under *§ 401 (a) (9) (C)*, the required beginning date for an IRA owner is April 1 of the calendar year following the calendar year in which the owner attains age 70".

Section 408 (i) provides that the trustee of an IRA shall make reports regarding such accounts as the Secretary may require.

Proposed regulations under §§ *401 (a) (9)* and *408 (a) (6) and (b) (3)* were published in January 2001 (REG-130477-00; REG-130481-00, 2001-1 C.B. 865). The proposed regulations, which substantially simplified the rules for determining required minimum distributions, [*2] provided that the trustee, custodian, or issuer of an IRA is required to report the amount of required minimum distributions from an IRA in accordance with IRS forms and instructions. For purposes of this notice, the term "trustee" includes a trustee, custodian, and an issuer of IRAs. The preamble to the proposed regulations described a process under which the IRS would be receiving public comments and consulting with interested parties in order to evaluate how to implement a reporting requirement that would provide the most useful information to the IRA owners and beneficiaries while minimizing the burden on IRA trustees.

The IRS has received a number of comments regarding the reporting requirement in the proposed regulations and the comments have been taken into account. Final and temporary regulations under §§ *401 (a) (9)* and *408 (a) (6) and (b) (3)* were published at *67 F.R. 18988 (Apr. 17, 2002)*. These regulations are effective January 1, 2003.

Section 1.408-8, Q&A-10, of the new regulations provides that the trustee of an IRA is required to report information, with respect to the amount required to be distributed from the IRA for each calendar year, to individuals or entities, at [*3] the time, and in the manner, prescribed by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin as well as in federal tax forms and accompanying instructions. This notice is being issued in conjunction with those regulations and pursuant to this delegation of authority to require reporting with respect to required minimum distributions from IRAs.

The reporting provisions in this notice are intended to assist taxpayers in complying with the minimum distribution requirement. However, the Treasury and the IRS continue to have concerns about the overall level of compliance in this

area and intend to monitor the effect of the new reporting regime on compliance to determine whether it would be appropriate to modify the regime in the future.

Although reporting of a required minimum distribution applies with respect to each IRA, the IRA owner may take the required minimum distribution from another IRA of the owner to the extent permitted under Q&A-9 of § 1.408-8.

REPORTING

I. Required Reporting to the IRA Owner

If a minimum distribution is required with respect to an IRA for a calendar year and the IRA owner is alive at the beginning of the [*4] year, the trustee that held the IRA as of December 31 of the prior year must provide a statement to the IRA owner by January 31 of the calendar year regarding the required minimum distribution in accordance with either of the two alternatives in this section. This requirement is effective beginning with required minimum distributions for 2003 (so that the first reports are due January 31, 2003).

Alternative one. An IRA trustee furnishes the IRA owner with a statement of the amount of the required minimum distribution with respect to the IRA for the calendar year and the date by which such amount must be distributed. The amount is permitted to be calculated assuming that the sole beneficiary of the IRA is not a spouse more than 10 years younger than the IRA owner and that no amounts received by the IRA after December 31 of the prior year are required to be taken into account to adjust the value of the IRA as of December 31 of the prior year for purposes of determining the required minimum distribution pursuant to Q&A-7 or Q&A-8 of § 1.408-8.

Alternative two. An IRA trustee provides a statement to the IRA owner that: (1) informs the IRA owner that a minimum distribution with respect to [*5] the IRA is required for the calendar year and the date by which such amount must be distributed and (2) includes an offer to furnish the IRA owner, upon request, with a calculation of the amount of the required minimum distribution with respect to the IRA for that calendar year. If the IRA owner requests such a calculation, the IRA trustee must calculate the required minimum distribution for the IRA owner and report that amount to the IRA owner.

Under both alternatives, the statement must also inform the IRA owner that the trustee will be reporting to the IRS, beginning with required minimum distributions for calendar year 2004, that the IRA owner is required to receive a required minimum distribution for the calendar year. (See section II below.) The statement can be provided to the IRA owner in conjunction with the statement of the fair market value of the IRA as of December 31 of the prior year that is otherwise required to be provided to the IRA owner by January 31 of a year.

If the surviving spouse of a deceased IRA owner elects to treat an IRA for which the spouse is the sole beneficiary as the spouse's own IRA by redesignating the IRA as an account in the name of the spouse as [*6] IRA owner rather than as beneficiary, the IRA trustee reports information on the required minimum distribution to the surviving spouse under the IRA owner rules in this section I. If the spouse is the sole beneficiary of an IRA of a deceased owner but has not affirmatively redesignated the IRA as the spouse's own IRA, the IRA trustee is permitted to assume that the surviving spouse of the deceased IRA owner has not elected to treat the IRA as the spouse's own IRA and continues to be treated as a beneficiary for purposes of § 401 (a) (9).

II. Required Reporting to the IRS

Beginning with required minimum distributions for calendar year 2004, if a minimum distribution is required with respect to an IRA for a calendar year, the trustee of the IRA must indicate that a minimum distribution is required with respect to the IRA for the calendar year (but need not indicate the amount) on Form 5498, *Individual Retirement Arrangement Information*, for the immediately preceding year (i.e., on a 2003 Form 5498 for a 2004 required minimum distribution) in accordance with the instructions for Form 5498.

III. No Reporting for Section 403 (b) Contracts and IRAs of Deceased Owners

Section 1.403 (b)-3 provides [*7] that a *section 403 (b)* contract is treated as an individual retirement plan for purposes of satisfying the required minimum distribution rules. Consequently, the delegation of authority to require reporting for IRAs also applies to *section 403 (b)* contracts. However, no reporting is required at this time with respect to required minimum distributions from *section 403 (b)* contracts.

Reporting is also not required at this time with respect to IRAs of deceased owners. Accordingly, no reporting is required for Roth IRAs because there are no lifetime minimum distributions required for Roth IRAs. If reporting is required in the future for *section 403 (b)* contracts or IRAs of deceased owners, the IRS will issue additional guidance, which will be effective prospectively.

IV. Application for Years After 2003

This notice provides the reporting rules for required minimum distributions for calendar year 2003. For required minimum distributions for calendar years after 2003, these rules apply except to the extent modified in federal tax forms and accompanying instructions.

PAPERWORK REDUCTION ACT

The collections of information contained in this notice have been reviewed and approved by the Office [*8] of Management and Budget in accordance with the Paperwork Reduction Act (*44 U.S.C. section 3507*) under control number 1545-1779.

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 control number.

The collection of information in this notice is in the section titled "REPORTING." This information is required to inform IRA owners of their required minimum distributions for the year. The likely respondents are (1) businesses or other for-profit institutions and (2) not-for-profit institutions.

The estimated total annual reporting burden is 1,170,000 hours.

The estimated annual burden per respondent varies from 4 minutes to 20 hours, depending on individual circumstances, with an estimated average of 15 hours. The estimated number of respondents is 78,000.

The estimated annual frequency of responses is one.

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.

DRAFTING INFORMATION

The principal authors of this notice are Steven Linder of the Employee Plans, Tax Exempt [*9] and Government Entities Division and Cathy Vohs of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact the Employee Plans taxpayer assistance telephone service between the hours of 8:00 a.m. and 6:30 p.m. Eastern Time, Monday through Friday by calling 1-877-829-5500 (a toll-free number). Mr. Linder can be reached at (202) 283-9888 (not a toll-free number). Ms. Vohs can be reached at (202) 622-6090 (not a toll-free number).