

Revenue Procedure 91-70

Contributions and distributions upon revocation of IRAs

SECTION 1. PURPOSE

This revenue procedure clarifies that reporting is required for all contributions to or distributions from an Individual Retirement Arrangement (IRA), including an IRA that has been revoked. An exception is made for reporting contributions transferred from another IRA, but no exception is made for reporting distributions from the transferee IRA, whether or not that transferee IRA is later revoked. Thus, any distribution from a revoked IRA must be reported.

SECTION 2. BACKGROUND

.01 An IRA can be opened through a regular contribution, a rollover, or a transfer from another IRA trustee. A rollover involves a distribution of assets from a qualified retirement plan or an IRA to an individual, followed by a contribution of those assets to an IRA. An IRA transfer involves movement of the assets from one IRA trustee to another IRA trustee, without any distribution to the individual. Such transfers are not subject to the distribution reporting requirements.

.02 An amount may be distributed from a qualified plan directly to an IRA at the direction of the individual. This transaction is treated as a distribution and must be so reported.

.03 Section 1.408-6(d)(4)(ii) of the Income Tax Regulations provides that an institution selling an IRA must either provide disclosure documents seven days before an IRA is opened or allow the buyer seven days after the IRA is established to revoke the IRA. This revocation option permits the buyer to remove the entire contribution and close the IRA without being charged a fee for opening or closing the IRA.

SECTION 3. REPORTING REQUIREMENTS

.01 The reporting requirements authorized under sections 408(i) and 6047(d) of the Internal Revenue Code apply to contributions to and distributions from IRAs, even if the IRA is revoked. Thus, a Form 5498 (Individual Retirement Arrangement Information), should be filed to report a contribution to an IRA even if the IRA is later revoked under section 1.408-6(d)(4)(ii) of the regulations.

.02 An exception is made for amounts transferred from one IRA to another IRA. In this case, the transferor IRA institution will generally have reported an IRA contribution on Form 5498 when the IRA was established (and when additional contributions were made).

Therefore, the transferee IRA institution should not file a Form 5498 upon the establishment of the transferred IRA.

.03 In addition, a Form 1099-R (Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.) must be filed for all distributions on account of revocation. Distributions should be reported as taxable in the year distributed.

.04 Thus, except as provided in Section 3.02, above, both the contribution to an IRA and the distribution from an IRA that is revoked must be reported, whether or not the contribution and distribution occur in the same year.

SECTION 4. REPORTING THE FAIR MARKET VALUE

.01 The Form 5498 is used both to report any contributions made to an IRA, and to report the fair market value of any IRA balance as of December 31 of the tax year. In addition, the IRA trustee is required to report the fair market value of the IRA as of December 31 to the owner by the following January 31. Generally, if the fair market value of the IRA is zero on December 31, no reporting of the fair market value is required. However, the IRA institution may still be required to file a Form 5498 to report any contribution made for the year.

.02 If both an IRA contribution and revocation of the IRA occur in the same calendar year, the contribution must be reported. The fair market value on December 31 need not be reported, because the account balance is zero on that day. However, if the IRA is revoked in the year after it is established, both the contribution and the fair market value must be reported.

SECTION 5. EFFECTIVE DATE

.01 The reporting requirements in this revenue procedure apply for contributions and distributions made after December 31, 1991.

.02 However, if an IRA is established in 1991 and revoked in 1992, no reporting is required of either the distribution or the fair market value.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Karen Field of the Employee Plans Technical and Actuarial Division. For more information concerning this revenue procedure, call the Employee Plans Technical and Actuarial Division's Taxpayer Assistance Number, (202) 566-6783 (not a toll-free number), Monday through Thursday between the hours of 1:30 pm and 4:00 pm, Eastern Standard Time. Mrs. Field may be reached at (202) 343-0729 (also not a toll-free number).