

Comment Letter on Deadline for Using Revised IRS Forms, February 2002

Via Facsimile

February 21, 2002

Carol D. Gold
Director—Employee Plans
Internal Revenue Service
T:EP
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Revenue Procedure 2002-10

Dear Ms. Gold:

On behalf of its investment company members, the Investment Company Institute¹ wishes to express the industry's concern with the June 1 deadline set forth in Revenue Procedure 2002-10 for the continued use of existing IRS model forms. For the reasons set forth below, we urge the IRS to extend this deadline to more closely comply with the time limits applicable to prototype plans pursuant to the revenue procedure.

As you know, the existing IRS model forms for establishing IRAs, simplified employee pensions (SEPs), and SIMPLE IRAs do not reflect the extensive changes to these vehicles enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA).² In addition, substantial changes to these forms will be necessary upon finalization of the proposed regulations governing required minimum distributions (RMDs) under Code section 401(a)(9). According to Revenue Procedure 2002-10, these final regulations are expected "in the near future." In the meantime, changes to the IRS model forms cannot be finalized.

According to the revenue procedure, however, financial institutions, IRA owners, and employers must use the revised model forms for new IRAs, SEPs, and SIMPLE IRAs established after June 1, 2002.³ Our members report that this June 1 date most likely would not provide adequate time for printing, preparing, and distributing the new forms and accompanying materials⁴ to offices and representatives nationwide, even if the RMD regulations already had been issued. In addition, our members typically provide training to industry employees and representatives that will be interacting directly with the public concerning the establishment of these accounts. Such printing, preparation, distribution, and training generally require significant lead-time.

We also note that the regime established under the revenue procedure for prototype IRAs differs from that imposed on model IRAs in that prototypes with EGTRRA opinion letters will not need to be adopted until 180 days after the prototype sponsor receives its opinion letter. We therefore request that the June 1, 2002, deadline be replaced with a deadline that more closely follows that set for prototype plans in order to allow time for industry printing, preparation, distribution, and training in connection with the new forms and other related materials. Specifically, we ask that the deadline for use of the new forms be the later of: (1) December 31, 2002; or (2) 180 days after the IRS officially issues the revised model forms.

Please feel free to contact me at (202) 371-5432 if we can provide any further information concerning this issue.

Sincerely,

Kathy D. Ireland
Associate Counsel

ENDNOTES

¹ The Investment Company Institute is the national association of the American investment company industry. Its membership includes 9,040 open-end investment companies ("mutual funds"), 484 closed-end investment companies, and 6 sponsors of unit investment trusts. Its mutual fund members have assets of about \$6.906trillion, accounting for approximately 95 percent of total industry assets, and over 88.6 million individual shareholders.

As of the end of 2000, mutual funds represented approximately 46 percent of the \$2.7 trillion IRA market, with approximately \$1.1 trillion in traditional IRAs, \$55 billion in Roth IRAs, \$69 billion in SEP-IRAs, and \$8 billion in SIMPLE IRAs.

² The following model IRS forms will require amendments in order to reflect the EGTRRA changes: Forms 5305, 5305-A, 5305-R, 5305-RA, and 5305-RB (relating to traditional IRAs and Roth IRAs); Forms 5305-S, 5305-SA, 5304-SIMPLE, and 5305-SIMPLE (relating to SIMPLE IRAs); and Forms 5305-SEP and 5305A-SEP (relating to SEPs).

³ Revenue Procedure 2002-10, Sections 4.01 & 4.05.

⁴ For example, as noted in Section 4.04 of Rev. Proc. 2002-10, financial institutions must distribute an amended disclosure statement to each individual using the revised IRA. See Code section 408(i).