**1999**

Department of the Treasury
**Internal Revenue Service**

# Instructions for Form 5329

## Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs

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

## A Change To Note

The 10% tax on early distributions does not apply to distributions made because of an IRS levy on a qualified retirement plan. See page 2.

## General Instructions

### Purpose of Form

Use Form 5329 to report any additional tax on individual retirement arrangements (IRAs), other qualified retirement plans, annuities, modified endowment contracts, or medical savings accounts (MSAs).

### Who Must File

You **MUST** file Form 5329 if any of the following apply.

- You received a distribution from a qualified retirement plan that is subject to the tax on early distributions, but distribution code **1** is not shown in box 7 of **Form 1099-R,** Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

**Note:** *You **do not** have to file Form 5329 for a distribution subject to the tax on early distributions if distribution code **1** is correctly shown in box 7 of Form 1099-R. Instead, see the instructions for Form 1040, line 53, for how to report the 10% tax.*

- You meet an exception to the tax on early distributions, but the correct distribution code for the exception is not shown in box 7 of Form 1099-R.
- You received distributions from education (Ed) IRAs in excess of your qualified higher education expenses.
- Your contributions for 1999 to your traditional IRAs, Roth IRAs, Ed IRAs, or MSAs are more than is allowable or you had an excess contribution on line 16, 18, 20, or 29 of your 1998 Form 5329.
- You did not receive the minimum required distribution from your qualified retirement plan.

TIP *If you rolled over part or all of the taxable part of a distribution from a qualified retirement plan (defined on this page), the part rolled over is not subject to the tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b, or Form 1040A, lines 10a and 10b or 11a and 11b, for how to report the rollover.*

### When and Where To File

File Form 5329 with your 1999 Form 1040 by the due date, including extensions, of your Form 1040.

If you do not have to file a 1999 income tax return but have to file Form 5329, complete and file Form 5329 with the IRS at the time and place you would be required to file Form 1040. Be sure to include your address on page 1 and your signature and date on page 2. Enclose, but do not attach, a check or money order payable to the "United States Treasury" for any taxes due. Write your social security number and "1999 Form 5329" on the check or money order.

#### Filing for Previous Tax Years

If you are filing Form 5329 to pay a tax for a previous year, you must use that year's version of the form. For example, if you are paying a tax for 1998, you must use the 1998 Form 5329 to report the tax. If you also have other changes, file Form 5329 for that year with **Form 1040X,** Amended U.S. Individual Income Tax Return. If you do not have any other changes for the previous year, file Form 5329 for that year by itself. See **When and Where To File** above.

## 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 individual retirement account or annuity.

**Note:** *Ed IRAs and MSAs are not qualified retirement plans.*

#### Traditional IRAs

A traditional IRA is any IRA, including a simplified employee pension (SEP) IRA, other than a SIMPLE IRA, Roth IRA, or Ed IRA.

**SEP IRAs.** A SEP includes a salary reduction SEP.

#### Early Distribution

Generally, any distribution from your qualified retirement plan, annuity, or modified endowment contract before you reach age 59½ is an early distribution. See **Part I—Tax on Early Distributions** on page 2 for details.

#### Rollover

A rollover is a tax-free distribution of assets from one qualified retirement plan that is reinvested in another plan. Generally, you must complete the rollover within 60 days following the distribution. See **Pub. 590,** Individual Retirement Arrangements (IRAs), for details.

**Note:** *If you instruct the trustee of your plan to transfer funds directly to another plan, the transfer is **not** considered a rollover. Do not include the amount transferred in income or deduct the amount transferred as a contribution. A transfer from a qualified employee plan to an IRA, however, **is** considered a rollover.*

#### Compensation

Compensation includes wages, salaries, professional fees, and other pay you receive for services you perform. It also includes sales commissions, commissions on insurance premiums, pay based on a percentage of profit, tips, and bonuses. 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 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, lines 27 and 29, but not by any loss from self-employment.

## Additional Information

See Pub. 590 and **Pub. 575,** Pension and Annuity Income.

## Specific Instructions

**Joint returns.** Each spouse must complete a separate Form 5329 if both spouses are required to file. Include the combined tax on Form 1040, line 53.

**Amended return.** If you are filing an amended 1999 Form 5329, check the box at the top of page 1 of the form. **Do not** use the 1999 Form 5329 to amend your return for any other year. Instead, see **Filing for Previous Tax Years** on page 1.

## Part I—Tax on Early Distributions

In general, if you receive an early distribution (including an involuntary cashout) from a traditional IRA, Roth IRA, or other qualified retirement plan, an annuity contract, or a modified endowment contract, the taxable part of the distribution is subject to an additional 10% tax.

The tax on early distributions does **not** apply to:

- 1999 IRA contributions withdrawn during the year;
- 1998 excess contributions withdrawn in 1999 by the due date (including extensions) of your 1998 tax return;
- Excess IRA contributions for years before 1998 withdrawn in 1999 and 1998 excess contributions withdrawn after the due date (including extensions) of your 1998 tax return if **(a)** no deduction was allowable (without regard to the modified adjusted gross income (AGI) limitation) nor taken for the excess contributions, and **(b)** your total IRA contributions for the tax year for which the excess contributions were made were not more than $2,250 for tax years before 1997 or $2,000 for tax years after 1996 (if your total contributions for the year included employer contributions to a SEP, increase that amount by the smaller of the employer contributions or $30,000);
- Distributions of excess contributions from a qualified cash or deferred arrangement;
- Distributions of excess aggregate contributions to meet nondiscrimination requirements for employee contributions and matching employer contributions;
- Distributions of excess deferrals; and
- Amounts distributed from unfunded deferred compensation plans of tax-exempt or state and local government employers.

See the instructions for line 2 on this page for other distributions that are not subject to the tax.

### Line 1

Enter the taxable amount of early distributions you received from:

- A qualified pension plan, including traditional IRAs and Roth IRAs (and income earned on excess contributions to your traditional IRAs and Roth IRAs),
- An annuity contract, or
- A modified endowment contract entered into after June 20, 1988.

**Exception.** If you received a Roth IRA distribution, include on line 1 the **smaller** of: **(a)** line 19 of your 1999 Form 8606, or **(b)** the sum of lines 16 and 26 of your 1999 Form 8606 plus the excess, if any, of line 16 of your 1998 Form 8606 over line 20 of that Form 8606.

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

### Line 2

The 10% additional tax 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 (01-11).

| No. | Exception |
|---|---|
| **01** | Distribution due to separation from service after reaching age 55 (applies only to qualified employee plans). |
| **02** | Distribution 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 a qualified employee plan, payments must begin after separation from service). |
| **03** | Distribution due to total and permanent disability. |
| **04** | Distribution due to death (does not apply to modified endowment contracts). |
| **05** | Distribution to the extent you have deductible medical expenses that can be claimed on line 4 of Schedule A (Form 1040) (does not apply to annuity or modified endowment contracts). |
| **06** | Distributions made to an alternate payee under a qualified domestic relations order (applies only to qualified employee plans). |
| **07** | Distributions made to unemployed individuals for health insurance premiums (applies only to IRAs). |
| **08** | Distributions made for higher education expenses (applies only to IRAs). |
| **09** | Distributions made for purchase of a first home, up to $10,000 (applies only to IRAs). |
| **10** | Distributions due to an IRS levy of the qualified plan. |
| **11** | Other (see instructions below). |

**Other.** The following exceptions also apply:

- A distribution was incorrectly indicated as an early distribution (code **1** or **S** was incorrectly entered in box 7 of Form 1099-R). Include on line 2 the amount you received when you were age 59½ or older.
- Any 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 retirement plan received within 2 years from the date you first participated in the 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—Tax on Certain Taxable Distributions From Education (Ed) IRAs

### Line 6

The 10% additional tax does not apply to distributions that are—

- 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); or
- Taxable solely because you elected to waive any exclusion you may be entitled to for your 1999 qualified higher education expenses. (This election was made by checking the “Yes” box on line 29 of Form 8606.)

The additional 10% tax also does not apply to excess contributions to an Ed IRA that are distributed to you by the due date of your return (including extensions). The distribution must include earnings on the excess contributions.

Enter on line 6 the total amount that can be excluded.

## Part III—Tax on Excess Contributions to Traditional IRAs

If you contributed more to your traditional IRA for 1999 than is allowable or you had an excess contribution from prior years on line 16 of your 1998 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 1999 excess contributions. See the instructions for line 15.

### Line 10

If you contributed less to your traditional IRA for 1999 than your contribution limit, enter the difference.

If you are not married filing jointly, your **contribution limit** is the **smaller** of $2,000 or your taxable compensation (see page 1). If you are married filing jointly, your contribution limit is generally $2,000. But if the combined taxable compensation for you and your spouse is less than $4,000, see **Spousal IRA Limit** in Pub. 590 for special rules.

Also include on line 9a or 9b (whichever applies) of the IRA Deduction Worksheet on page 27 of the Form 1040 instructions 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

If you withdrew any money from your IRA in 1999 that must be included in your income for 1999, enter that amount on line 11. Do not include any contributions withdrawn that will be reported on line 12.

### Line 12

Enter any excess contributions to your IRA for 1976 through 1997 that you withdrew in 1999. Also, include any 1998 excess contributions that you withdrew after the due date (including extensions) of your 1998 income tax return, if:

- You did not claim a deduction for the excess and no deduction was allowable (without regard to the modified AGI limitation), and
- The total contributions to your IRA for the tax year for which the excess contributions were made were not more than $2,250 for tax years before 1997 or $2,000 for tax years after 1996. (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 $30,000.)

### Line 15

Enter the excess of your contributions for 1999 over your contribution limit (unless you properly withdraw the excess contributions—see below). See the instructions for line 10 to figure your contribution limit.

Any amount you contribute to a traditional IRA for the year in which you reach age 70½ or a later year is an excess contribution (i.e., your contribution limit is zero). Do not include rollover contributions in figuring your excess contributions.

You may withdraw some or all of your excess contributions for 1999 and they will not be treated as excess contributions **if:**

- You make the withdrawal by the due date, including extensions, of your 1999 tax return,
- You do not claim a deduction for the amount of the withdrawn contribution, and
- You also withdraw any income earned on the withdrawn contribution and report the earnings on Form 1040 for the year you made the contribution. Also, if you had not reached age 59½ at the time of the withdrawal, include the amount of the earnings as an early distribution on line 1 of Form 5329 for the year in which you report the earnings.

## Part IV—Tax on Excess Contributions to Roth IRAs

If you contributed more to your Roth IRA for 1999 than is allowable or you had an excess contribution on line 18 of your 1998 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 1999 excess contributions. See the instructions for line 23.

### Line 19

If you contributed less to your Roth IRA for 1999 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) reduced by any 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:

- $150,000 if married filing jointly,
- $0 if married filing separately and you lived with your spouse at any time in 1999, or
- $95,000 for any other taxpayer.
  See Pub. 590 for details.

### Line 23

Enter the excess of your contributions for 1999 (not including rollovers) over your contribution limit for Roth IRAs (see the instructions for line 19). Any amounts converted from a traditional IRA or SIMPLE IRA to a Roth IRA are excess contributions if your modified AGI for Roth IRA purposes is over $100,000 or your filing status is married filing separately and you lived with your spouse at any time in 1999. See “Recharacterizations” in the Instructions for Form 8606, and Pub. 590, for details.

You may withdraw some or all of your excess contributions for 1999 and they will not be treated as excess contributions or taxed as distributions **if:**

- You make the withdrawal by the due date, including extensions, of your 1999 tax return, and
- You also withdraw any income earned on the withdrawn contribution and report the earnings on Form 1040 for the year in which you made the contribution. Also, if you had not reached age 59½ at the time of the withdrawal, include the amount of the earnings as an early distribution on line 1 of Form 5329 for the year in which you report the earnings.

## Part V—Tax on Excess Contributions to Ed IRAs

If the contributions to your Ed IRAs for 1999 were more than is allowable or an excess contribution is shown on line 20 of your 1998 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 1999 excess contributions. See the instructions for line 31.

### Line 27

Enter the excess, if any, of the maximum amount that may be contributed, over the amount that was contributed, to your Ed IRAs in 1999. See the instructions for line 31 to figure the maximum amount that may be contributed.

### Line 31

Enter the excess of the contributions to your Ed IRAs for 1999 (not including rollovers) over the contribution limit for Ed IRAs. The contribution limit is the **smaller** of $500 or the sum of the maximum amounts allowed to be contributed by the contributor(s) to your Ed IRA. The maximum contribution a person may make to an Ed IRA may be limited based on the person's modified AGI. See Pub. 590 for details.

Also, all amounts contributed to an Ed IRA are excess contributions if any amount is contributed to a qualified state tuition program for the same beneficiary (except for contributions to a qualified state tuition program made from a distribution from the beneficiary's Ed IRA).

You may withdraw some or all of the excess contributions for 1999 and they will not be treated as excess contributions or taxed as distributions **if:**

- You make the withdrawal by the due date, including extensions, of your 1999 tax return (or by the date your return would be due if you were required to file a return), and
- You also withdraw any income earned on the withdrawn contribution and include the earnings in gross income for 1999.

## Part VI—Tax on Excess Contributions to Medical Savings Accounts (MSAs)

If you or your employer contributed more to your MSA for 1999 than is allowable or an excess contribution from prior years is shown on line 29 of your 1998 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 1999 excess contributions. See the instructions for line 39.

### Line 35

If the contribution limit (the **smaller** of line 5 or line 6 of Form 8853) is greater than the contributions to your MSA for 1999, enter the difference on line 35. Also include on line 7 of your 1999 Form 8853 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 MSA for 1999 (from Form 8853, line 4) over your contribution limit (the smaller of line 5 or line 6 of Form 8853). However, you may withdraw some or all of the excess contributions for 1999 and they will not be treated as excess contributions or taxed as a distribution **if:**

- You make the withdrawal by the due date, including extensions, of your 1999 tax return, and
- You also 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 8a and 8b.

Also include on line 39 any excess contributions your employer made. See Form 8853 for details.

## Part VII—Tax on Excess Accumulation in Qualified Retirement Plans

You owe this tax if you do not receive the minimum required distribution from your qualified retirement plan (including an IRA or an eligible deferred compensation plan under section 457 but not an Ed IRA or a Roth IRA). 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).

### Required Distributions

**IRA (other than an Ed IRA or 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 may receive your entire interest in the IRA, or begin receiving periodic distributions over your life expectancy or over the joint life expectancy of you and your designated beneficiary (or over a shorter period).

If you choose to receive periodic distributions, you must receive a minimum required distribution each year. Figure the minimum required distribution by dividing the account balance of the IRA on December 31 of the year preceding the distribution by the applicable life expectancy. For applicable life expectancies, you must use the expected return multiples from the tables in Pub. 590 or **Pub. 939,** General Rule for Pensions and Annuities.

Under an alternative method, if you have more than one IRA, you may take the minimum distribution from any one or more of the individual IRAs.

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

**Qualified pension, profit-sharing, stock bonus, or section 457 deferred compensation plan.** 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 figures the amount that must be distributed each year.

**Note:** *The IRS may waive this tax if you can show that any shortfall in the amount of withdrawals was due to reasonable error and that you are taking appropriate steps to remedy the shortfall. If you believe you qualify for this relief, file Form 5329, pay the tax, and attach your letter of explanation. If the IRS grants your request, we will send you a refund.*

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The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping,** 2 hr., 5 min.; **Learning about the law or the form,** 33 min.; **Preparing the form,** 2 hr., 7 min.; **Copying, assembling, and sending the form to the IRS,** 14 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the form to this address. Instead, see **When and Where To File** on page 1.