2001

Department of the Treasury
Internal Revenue Service

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

Purpose of Form

Use Form 5329 to report any additional taxes on individual retirement arrangements (IRAs), other qualified retirement plans, modified endowment contracts, Coverdell education savings accounts (ESAs), or Archer MSAs.

Who Must File

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

- You received an early distribution from a Roth IRA shown on Form 8606, line 21.
- You received an early distribution from a qualified retirement plan (other than a Roth IRA) and, 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 if distribution code* ***1*** *is correctly shown in box 7 of Form 1099-R. Instead, see the instructions for Form 1040, line 55, for how to report the 10% additional tax directly on that line.*

- 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 Coverdell ESAs in excess of your qualified higher education expenses.
- The contributions for 2001 to your traditional IRAs, Roth IRAs, Coverdell ESAs, or Archer MSAs are more than is allowable or you had an excess contribution on line 16, 24, 32, or 40 of your 2000 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 tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b, or Form 1040A, lines 11a and 11b or 12a and 12b, for how to report the rollover.*

When and Where To File

File Form 5329 with your 2001 Form 1040 by the due date, including extensions, of your Form 1040.

If you do not have to file a 2001 income tax return, complete and file Form 5329 by itself 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 **"United States Treasury"** for any taxes due. Write your SSN and "2001 Form 5329" on it.

Prior tax years. If you are filing Form 5329 for a prior year, you must use that year's version of the form. If you have other changes, file Form 5329 for that year with **Form 1040X,** Amended U.S. Individual Income Tax Return. If you do not have other changes, file Form 5329 by itself (see 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 IRA.

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 $59^1/_2$ is an early distribution.

Rollover. 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 following the distribution. Any taxable amount not rolled over must be included in income and may be subject to the tax on early distributions.

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 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,** Individual Retirement Arrangements, **Pub. 575,** Pension and Annuity Income, and **Pub. 970,** Tax Benefits for Higher Education.

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 55.

Amended return. If you are filing an amended 2001 Form 5329, check the box at the top of page 1 of the form. **Do not** use the 2001 Form 5329 to amend your return for any other year. Instead, see **Prior tax years** on this page.

Part I—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 is generally subject to a 10% additional tax. But see **Exception for Roth IRA Distributions** on page 2.

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

- Distributions from a traditional or SIMPLE IRA that were converted to a Roth IRA;
- The distribution of certain excess IRA contributions (see the instructions for lines 15 and 23);
- 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.

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

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 2001 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 tax on early distributions. See Pub. 590 for details.

Exception for Roth IRA Distributions

If you received an early distribution from a Roth IRA, include on line 1 of Form 5329 the amount from your 2001 Form 8606, line 21, reduced by the amount, if any, allocable to the amount on your 1998, 1999, or 2000 Form 8606, line 15, or 2001 Form 8606, line 17. The amount on line 21 is allocable, in the order shown, to the amounts on the lines listed below (to the extent a prior year distribution was not allocable to the amount.) See **Are Distributions From My Roth IRA Taxable?** in Pub. 590 for details.

• Your 1998 Form 8606, line 16.
• Your 1998 Form 8606, line 15.
• Your 1999 Form 8606, line 16.
• Your 1999 Form 8606, line 15.
• Your 2000 Form 8606, line 16.
• Your 2000 Form 8606, line 15.
• Your 2001 Form 8606, line 18.
• Your 2001 Form 8606, line 17.
• Your 2001 Form 8606, line 23.

Example. You converted $20,000 from a traditional IRA to a Roth IRA in 1998 and converted $10,000 in 1999. Your 1998 Form 8606 had $5,000 on line 15 and $15,000 on line 16 and your 1999 Form 8606 had $3,000 on line 15 and $7,000 on line 16. You made Roth IRA contributions of $2,000 for 1998 and 1999. You did not make any Roth IRA conversions or contributions for 2000 or 2001 or take any Roth IRA distributions in 1998, 1999, or 2000. On July 9, 2001, at age 53, you took a $33,000 distribution from your Roth IRA. The first $4,000 of the distribution is allocated to your two $2,000 Roth IRA contributions, and $29,000 is shown on your 2001 Form 8606, line 21. $15,000 of the $29,000 is allocated first to your 1998 Form 8606, line 16, then $5,000 to your 1998 Form 8606, line 15, and $7,000 to your 1999 Form 8606, line 16. The remaining $2,000 is allocated to the $3,000 on your 1999 Form 8606, line 15. You enter $22,000 on line 1 ($29,000 minus the sum of $5,000 and $2,000). If you take a Roth IRA distribution in 2002, the first $1,000 will be allocated to the $1,000 remaining from your 1999 Form 8606, line 15, and will not be subject to the tax on early distributions.

Line 2

The 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 (01-11).

No.	Exception
01	Qualified employee plan distributions due to separation from service in or after the year you reach age 55.
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 a qualified employee 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	Distributions 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 contracts or modified endowment contracts).
06	Qualified employee plan distributions made to an alternate payee under a qualified domestic relations order.
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 of the qualified retirement plan.
11	Other (see instructions below).

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 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—Tax on Certain Taxable Distributions From Coverdell Education Savings Accounts (ESAs)

Line 6

This tax does not apply to distributions:

• 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

• Included in income solely because you elected to waive any exclusion you may be entitled to for your 2001 qualified higher education expenses. This election was made by checking the "Yes" box on line 29 of Form 8606.

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

Part III—Tax on Excess Contributions to Traditional IRAs

If you contributed more for 2001 than is allowable or you had an excess contribution from prior years on line 16 of your 2000 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2001 excess contributions (see the instructions for line 15).

Line 10

If you contributed less to your traditional IRAs for 2001 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 $2,000 or your taxable compensation (see page 1). If you are married filing jointly, your contribution limit is generally $2,000 and your spouse's limit is $2,000 as well. But if the combined taxable compensation for you and your spouse is less than $4,000, see **How Much Can Be Contributed?** in Pub. 590 for special rules.

Also include on line 9a or 9b of the IRA Deduction Worksheet in the instructions for Form 1040, line 23, 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 1999 that you had returned to you in 2001 and any 2000 excess contributions that you had returned to you in 2001 after the due date (including extensions) of your 2000 income tax return, that are included on line 9 if:

- You did not claim a deduction for the excess and no traditional IRA deduction was allowable (without regard to the modified AGI limitation) for the contribution and
- The total contributions to your traditional (and SEP) IRAs 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 to traditional IRAs for 2001 (unless withdrawn—see below) over your contribution limit for traditional IRAs. See the instructions for line 10 to figure your contribution limit for traditional IRAs. Any amount you contribute for the year in which you reach age $70\frac{1}{2}$ or a later year is an excess contribution (that is, your contribution limit is zero). Do not include rollovers in figuring your excess contributions.

You may withdraw some or all of your excess contributions for 2001 and they will not be treated as having been contributed **if:**

- You make the withdrawal by the due date, including extensions, of your 2001 tax return,
- You do not claim a traditional IRA deduction for the withdrawn contribution, 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 $59\frac{1}{2}$ 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 may 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 2001 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—Tax on Excess Contributions to Roth IRAs

If you contributed more to your Roth IRA for 2001 than is allowable or you had an excess contribution on line 24 of your 2000 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2001 excess contributions (see the instructions for line 23).

Line 19

If you contributed less to your Roth IRAs for 2001 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 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:

- $150,000 if married filing jointly,
- $0 if married filing separately and you lived with your spouse at any time in 2001, or
- $95,000 for any other taxpayer.

See Pub. 590 for details.

Line 20

Enter on line 20 any withdrawals from your Roth IRA in 2001 shown on Form 8606, line 19. Do not include the withdrawal of any excess contributions and related earnings (see below).

Line 23

Enter the excess of your contributions to Roth IRAs for 2001 (unless withdrawn—see below) over your contribution limit for Roth IRAs (see the instructions for line 19).

Any amounts converted to a Roth IRA are excess Roth IRA 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 2001. See **Recharacterizations** in the Instructions for Form 8606 for details. Do not include rollovers in figuring your excess contributions.

You may withdraw some or all of your excess contributions for 2001 and they will not be treated as having been contributed **if:**

- You make the withdrawal by the due date, including extensions, of your 2001 tax return 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 $59\frac{1}{2}$ 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 may 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 2001 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—Tax on Excess Contributions to Coverdell ESAs

If the contributions to your Coverdell ESAs for 2001 were more than is allowable or an excess contribution is shown on line 32 of your 2000 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2001 excess contributions (see the instructions for line 31).

Line 27

Enter the excess, if any, of the maximum amount that may be contributed to your Coverdell ESAs for 2001 (see below) over the amount actually contributed in 2001.

Line 31

Enter the excess of the contributions to your Coverdell ESAs in 2001 (not including rollovers) over your contribution limit for Coverdell ESAs. Your contribution limit is the **smaller** of $500 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 person's modified AGI. See Pub. 970 for details. Also, all amounts contributed to a Coverdell ESA 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 Coverdell ESA).

You may withdraw some or all of the excess contributions for 2001 and they will not be treated as having been contributed **if:**

- You make the withdrawal by the due date, including extensions, of your 2001 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 2001.

If you timely filed your return without withdrawing the excess contributions, you may 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 2001 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—Tax on Excess Contributions to Archer MSAs

If you or your employer contributed more to your Archer MSA for 2001 than is allowable or an excess contribution from prior years is shown on line 39 of your 2000 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2001 excess contributions (see the instructions for line 39).

Line 35

If the contribution limit for your Archer MSAs (the **smaller** of line 5 or line 6 of Form 8853) is greater than the contributions to your Archer MSAs for 2001, enter the difference on line 35. Also include on line 7 of your 2001 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 Archer MSA for 2001 (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 2001 and they will not be treated as having been contributed **if:**

- You make the withdrawal by the due date, including extensions, of your 2001 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 contribution and related earnings on Form 8853, lines 8a and 8b.

If you timely filed your return without withdrawing the excess contributions, you may 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 2001 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).

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. 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 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 $70\frac{1}{2}$. At that time, you may 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 may 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, use the expected return multiples from the tables in Pub. 590.

You may also use a new simplified method to figure your minimum required distribution. The new method may reduce your minimum required distribution. If the trustee, custodian, or issuer of your IRA informs you of the minimum required distribution, you may use that amount.

If you have more than one IRA, you may 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.

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 a beneficiary or surviving spouse. See Pub. 590 for details.

Qualified retirement plans other than IRAs. 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 $70\frac{1}{2}$ 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 $70\frac{1}{2}$, regardless of when you retire.

Your plan administrator should figure 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 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 a letter of explanation. If the IRS waives the tax, we will send you a refund.*

For more details, see Pub. 575.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

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.

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.

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