

# 5305-A Traditional Individual Retirement Custodial Account

(Under Section 408(a) of the Internal Revenue Code)

The depositor (the depositor is the person who establishes the custodial account) named on this Traditional IRA is establishing a traditional individual retirement account under section 408(a) to provide for his or her retirement and for the support of his or her beneficiaries after death. The custodian has given the depositor the disclosure statement required by Regulations section 1.408-6. The owner and the custodian make the following agreement:

## Article I

Except in the case of a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an employer contribution to a simplified employee pension plan as described in section 408(k), or a re-characterized contribution described in section 408A(d)(6), the custodian will accept only cash contributions up to \$3,000 per year for tax years 2002 through 2004. That contribution limit is increased to \$4,000 for tax years 2005 through 2007 and \$5,000 for 2008 and thereafter. For individuals who have reached the age of 50 before the close of the tax year, the contribution limit is increased to \$3,500 per year for tax years 2002 through 2004, \$4,500 for 2005, \$5,000 for 2006 and 2007, and \$6,000 for 2008 and thereafter. For tax years after 2008, the above limits will be increased to reflect a cost-of-living adjustment, if any.

## Article II

The depositor's interest in the balance in the custodial account is non-forfeitable.

## Article III

1. No part of the custodial account funds may be invested in life insurance contracts, nor may the assets of the custodial account be commingled with other property except in a common trust fund or common investment fund (within the meaning of section 408(a)(5)).
2. No part of the custodial account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

## Article IV

1. Notwithstanding any provision of this agreement to the contrary, the distribution of the depositor's interest in the custodial account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations there under, the provisions of which are herein incorporated by reference.
2. The depositor's entire interest in the custodial account must be, or begin to be, distributed not later than the depositor's required beginning date, April 1 following the calendar year in which the depositor reaches age 70½. By that date, the depositor may elect, in a manner acceptable to the custodian, to have the balance in the custodial account distributed in:
  - (a) A single sum or
  - (b) Payments over a period not longer than the life of the depositor or the joint lives of the depositor and his or her designated beneficiary.
3. If the depositor dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows:
  - (a) If the depositor dies on or after the required beginning date and:
    - (i) the designated beneficiary is the depositor's surviving spouse, the remaining interest will be distributed over the surviving spouse's life expectancy as determined each year until such spouse's death, or over the period in paragraph (a)(iii) below if longer. Any interest remaining after the spouse's death will be distributed over such spouse's remaining life expectancy as determined in the year of the spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii) below, over such period.
    - (ii) the designated beneficiary is not the depositor's surviving spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the depositor and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) below if longer.
    - (iii) there is no designated beneficiary, the remaining interest will be distributed over the remaining life expectancy of the depositor as determined in the year of the depositor's death and reduced by 1 for each subsequent year.
  - (b) If the depositor dies before the required beginning date, the remaining interest will be distributed in accordance with (i) below or, if elected or there is no designated beneficiary, in accordance with (ii) below:
    - (i) The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the depositor's death. If, however, the designated beneficiary is the depositor's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the depositor would have reached age 70½. But, in such case, if the depositor's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with (ii) below if there is no such designated beneficiary.
    - (ii) The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the depositor's death.
4. If the depositor dies before his or her entire interest has been distributed and if the designated beneficiary is not the depositor's surviving spouse, no additional contributions may be accepted in the account.
5. The minimum amount that must be distributed each year, beginning with the year containing the depositor's required beginning date is known as the "required minimum distribution" and is determined as follows:
  - (a) The required minimum distribution under paragraph 2 (b) for any year, beginning with the year the depositor reaches age 70½, is the depositor's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform lifetime table in Regulations section 1.401(a)(9)-9. However, if the depositor's designated beneficiary is his or her surviving spouse the required minimum distribution for a year shall not be more than the depositor's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401 (a) (9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the depositor's (or, if applicable, the depositor and spouse's) attained age (or ages) in the year.
  - (b) The required minimum distribution under paragraphs 3(a) and 3 (b) (i) for a year, beginning with the year following the year of the depositor's death (or the year the depositor would have reached age 70½, if applicable under paragraph 3 (b) (i) is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401 (a) (9)-9) of the individual specified in such paragraphs 3 (a) and 3 (b) (i).
  - (c) The required minimum distribution for the year the depositor reaches age 70½ can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.

6. The owner of two or more traditional IRAs may satisfy the minimum distribution requirements described above by taking from one traditional IRA the amount required to satisfy the requirement for another in accordance with the regulations under section 408 (a) (6).

## Article V

1. The depositor agrees to provide the custodian with all information necessary to prepare any reports required by section 408 (i) and Regulations sections 1.408-5 and 1.408-6.
2. The custodian agrees to submit to the Internal Revenue Service (IRS) and depositor the reports prescribed by the IRS.

## Article VI

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through III and this sentence will be controlling. Any additional articles inconsistent with section 408(a) and the related regulations will be invalid.

## Article VII

This agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the persons whose signatures appear below.

## Article VIII

An Individual retirement account (IRA) is established after the form is fully executed by both the Depositor and the Custodian, and must be completed no later than the due date of Individual's Income Tax return for the tax year (without regard to extensions). This account must be created in the USA for the exclusive benefit of the Depositor or his/her beneficiaries. Do not file Form 5305-A with the IRS. Instead keep it for record purposes

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## General Instructions

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

## Purpose of Form

Form 5305-A is a model custodial account agreement that meets the requirements of section 408(a) and has been pre-approved by the IRS. A traditional individual retirement account (Traditional IRA) is established after the form is fully executed by both the individual (depositor) and the custodian and must be completed no later than the due date of the individual's income tax return for the tax year (excluding extensions). This account must be created in the United States for the exclusive benefit of the depositor and his or her beneficiaries.

**Do not** file Form 5305-A with IRS. Instead, keep it with your records.

For more information on IRAs, including the required disclosures the custodian must give the depositor, see **Pub. 590**, Individual Retirement Arrangements (IRAs).

## Definitions

**Custodian.** The custodian must be a bank or savings and loan association, as defined in section 408(n), or any person who has the approval of the IRS to act as custodian.

**Depositor.** The depositor is the person who establishes the custodial account.

## Identifying Number

The depositor's social security number will serve as the identification number of his or her IRA. An employer identification number (EIN) is required only for an IRA for which a return is filed to report unrelated business taxable income. An EIN is required for a common fund created for IRAs.

## Traditional IRA for Nonworking Spouse

Form 5305-A may be used to establish the IRA custodial account for a nonworking spouse.

Contributions to an IRA custodial account for a nonworking spouse must be made to a separate IRA custodial account established by the nonworking spouse.

## Specific Instructions

**Article IV.** Distributions made under this article may be made in a single sum, periodic payment, or a combination of both. The distribution option should be reviewed in the year the depositor reaches age 70½ to ensure that the requirements of section 408(a)(6) have been met.

**Article VIII.** Article VIII and any that follow it may incorporate additional provisions that are agreed to by the depositor and custodian to complete the agreement. They may include, for example, definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the custodian,

custodian's fees, state law requirements, beginning date of distributions, accepting only cash, treatment of excess contributions, prohibited transactions with the depositor, etc. Attach additional pages if necessary.

# Traditional IRA Disclosure Statement

## **IRA PURPOSE**

This IRA Disclosure Statement is designed to help you understand the concept of Traditional Individual Retirement Accounts (IRAs) and the basic rules affecting them.

### **A. INTRODUCTION**

This Disclosure Statement explains what you should know about your Traditional Individual Retirement Account ("Traditional IRA") and is a general review of the federal income tax law applicable to it. Traditional IRAs are intended to help individuals in preparing for their retirement. Therefore, Traditional IRAs may not be used like normal investments and are subject to many restrictions imposed by the Internal Revenue Code.

In 1974, Congress introduced the concept of Traditional IRAs to encourage personal retirement planning. A Traditional IRA is a custodial account that lets you set aside money for your retirement. Your contributions may be tax deductible and the earnings from your Traditional IRA are not taxed until they are distributed to you. (Certain investments, however, may generate "unrelated business income" that may be taxable in the year earned.) The Custodian is also referred to in this Disclosure Statement as "we," "us" or "our."

Please read this Disclosure Statement and the attached materials carefully. Please note that the rules regarding Traditional IRAs are subject to frequent change. Before entering into any major transaction involving your Traditional IRA, you should make sure that you have the most current information available. If you have any legal or tax questions concerning your Traditional IRA, we urge you to discuss them with your attorney or personal tax consultant. The Custodian, will, of course, be happy to answer any questions concerning the operation and financial aspect of your Traditional IRA, but cannot give you legal or tax advice.

#### **A.1 How do I open a Traditional IRA?**

Complete an IRA Application and return it as indicated on the application. You must sign and complete the IRA Application in order to establish a Traditional IRA .

#### **A.2 May I cancel my Traditional IRA?**

**Yes**, but to receive a full refund without penalty on your initial contribution, you must do so on or before the seventh (7th) day after you receive the Traditional IRA Disclosure Statement. To cancel your Traditional IRA, either deliver a written notice of cancellation or mail one to the address shown on the application before the end of the seven-day period. If the Custodial Agreement is mailed to you, you will be deemed to have received it seven days after the postmark date absent evidence to the contrary. If an important change is made to the Disclosure Statement or your Traditional IRA during the seven-day period, we will notify you of the change and you will have an additional seven days from the date you receive the notice to revoke your Traditional IRA.

If you send your notice by first class mail, your revocation will be deemed mailed as of the date of the postmark.

Until the seven-day period for revoking your Traditional IRA has lapsed, contributions may be accepted, but investment instructions for your IRA may be restricted.

If you revoke your Traditional IRA within the seven-day period, the Mutual Fund will return to you the entire amount of the contributions or the actual property contributed before your revocation. You will not earn interest on the contribution if you revoke. There will be no adjustments for administrative expenses, or changes in the market value. When you revoke your Traditional IRA, the initial contribution and return of the contribution are reported to the IRS. You should consult your financial or tax advisor if you have any questions about taxes.

#### **A.3 Is my Traditional IRA non-forfeitable?**

Your interest in your Traditional IRA is non-forfeitable at all times.

#### **A.4 Is my Traditional IRA approved by the Internal Revenue Service?**

Since the Custodial Agreement establishing your Traditional IRA utilizes IRS Form 5305-A, as currently provided by the IRS, your Traditional IRA will be treated as approved as to form. IRS approval is a determination as to the form of your Traditional IRA but does not represent a determination of its merits. In the event that the laws governing Traditional IRAs are amended or changed and cause differences between our current Custodial Agreement and the new laws, we will administer your Traditional IRA in accordance with the new laws and amend the Custodial Agreement when revised IRS forms are published.

You may obtain further information on Traditional IRAs from your District Office of the IRS. In particular, you may wish to obtain IRS Publication 590 Individual Retirement Accounts (IRAs) at [www.irs.gov](http://www.irs.gov).

## **B. CONTRIBUTIONS TO YOUR TRADITIONAL IRA**

### **B.1 What is a Traditional IRA contribution?**

There are two types of Traditional IRA contributions.

An "annual contribution" is a cash deposit to your Traditional IRA that may be deductible on your federal income tax return up to the amount fixed by federal tax law. Individuals who are age 50 and older can contribute an additional "catch-up" amount beginning in the taxable year in which the individual turns age 50.

A "rollover contribution" is a deposit to your Traditional IRA of funds that you receive from either an employer retirement plan or another eligible IRA. A rollover contribution is not deductible and is subject to special rules as discussed in Section D: Rollover Contributions.

Additionally, your employer may make a contribution to your IRA if your employer maintains a Simplified Employee Pension (SEP). Your employer may deduct this contribution as a business expense. This contribution is generally not deductible on your federal tax return.

## **C. ANNUAL CONTRIBUTIONS:**

### **C.1 May I contribute to a Traditional IRA?**

If at the end of a tax year you are under the age of 70½ and either you (or your spouse) have received compensation from employment for that year, you may establish and/or contribute to a Traditional IRA for that year. Compensation includes salary, wages, commissions, fees, tips and other income you or your spouse receive for your personal services, as well as taxable alimony and separate maintenance payments received under a decree of divorce or separate maintenance. It does not include items such as earnings and dividends on investments, deferred compensation or monies from retirement plans or annuities.

Beginning in 2004, you may treat non-taxable combat pay as compensation under certain circumstances. You may be able to make additional contributions for 2004 and 2005 based on the non-taxable combat pay. Consult your tax advisor for more information about this special contribution of non-taxable combat pay.

You are allowed to direct that all or a portion of your federal income tax refund be paid directly to your Traditional IRA, or your spouse's Traditional IRA if you file jointly. The direct deposit of a tax refund is considered an annual contribution and is subject to the contribution limits and the rules that apply to annual contributions, including the tax deduction and contribution deadline rules described in Questions C2 and C7, respectively.

If you took a "qualified reservist distribution" from your IRA or another eligible retirement plan, you may be able to repay the distribution to your Traditional IRA as a non-deductible contribution. See Question E2 (i) for more information about "qualified reservist distributions." The "qualified reservist distribution" repayments may be made even if the repayment would cause your total contributions to the Traditional IRA to exceed the contribution limits. The repayments must be made within two years after your active duty period ends. Please consult your tax advisor for more information if you think you may be eligible for this special nondeductible contribution.

In 2007, 2008 and 2009, you may make an additional contribution to your Traditional IRA of up to the smaller of \$3,000 or your compensation per year if your employer declared bankruptcy and is subject to indictment or conviction from business transactions related to the bankruptcy and your contributions to your employer's 401(k) plan were matched at least 50 percent with employer stock. In addition, to be eligible for this additional contribution, you must have been a participant in the 401(k) plan six months before the bankruptcy filing. Individuals age 50 or older who make this additional contribution to their Traditional IRA may not also make the additional age 50 or older "catch-up" contribution described in Question B1 above. If you think you may be eligible for this additional contribution, you should discuss the situation with your tax advisor.

### **C.2 How much may I contribute?**

Federal tax laws determine how much you may contribute. In any year you or your spouse receive compensation, you may make total annual contributions to all of your Traditional and Roth IRAs in any amount up to the lesser of the compensation you and your spouse receive for that year (less any Traditional and Roth IRA contributions made by or on behalf of your spouse) or the maximum amount as determined from the chart below. Unless otherwise specified, for purposes of explaining how much you may contribute to a Traditional IRA, this disclosure statement assumes that you will not make contributions to a Roth IRA.

#### **CONTRIBUTION LIMITS:**

Year	Maximum Regular Contribution (Under Age 50)	Maximum Catch-Up Contribution (Age 50 or older)	Total Maximum Contribution (Age 50 or older)
2009	\$5,000	\$1,000	\$6,000
2010	\$5,000	\$1,000	\$6,000

*\*The maximum annual contribution figures will take into account potential cost of living adjustment increases.*

You may always contribute less than the maximum amount, and do not have to contribute every year.

If, however, you contribute more than you are allowed for a tax year, you may incur a penalty for an "excess contribution." This penalty is explained in Section H: Excess Contributions and Prohibited Transactions.

### **C.3 How much of my annual contribution is tax-deductible for federal income tax purposes?**

If neither you nor your spouse (if you are married) is an active participant [see (a)] you may make and deduct the maximum contribution to your IRA and the maximum contribution to your spouse's IRA as determined in Question C2, as long as the total contributions to both IRAs do not exceed 100 percent of your compensation for the year.

If you are an active participant but have a modified adjusted gross income (MAGI) below a certain level [see (b)], you may make a deductible contribution. If, however, you are an active participant and your MAGI is above the specified level, the amount of the deductible contribution you may make to a Traditional IRA is phased down and eventually eliminated.

The determination of active participation is made separately for you and your spouse. However, if you are not an active participant, but your spouse is an active participant, your maximum deduction for IRA contributions may be limited depending on your MAGI.

#### **(a.) Active Participant**

You are an "active participant" for a year if you are covered by a retirement plan. You are covered by a "retirement plan" for a year if your employer or union has a retirement plan under which money is added to your account or you are eligible to earn retirement credits. For example, if you are covered under a profit-sharing plan, certain government plans, a salary reduction arrangement (such as a tax sheltered annuity arrangement or a 401(k) plan), a simplified employee pension plan (SEP), a SIMPLE IRA or a plan which promises you a retirement benefit which is based upon the number of years of service you have with an employer, you are likely to be an active participant. Your Form W-2 for the year should indicate your participant status.

You are an active participant for a year even if you are not yet vested in your retirement benefit. Also, if you make required contributions or voluntary employee contributions to a retirement plan, you are an active participant. In certain plans, you may be an active participant even if you were only with the employer for part of a year.

You are not considered an active participant if you are covered in a plan only because of your service as (1) an Armed Forces Reservist, for 90 days or less of active service, or (2) a volunteer firefighter covered for fire fighting service by a government plan and your accrued retirement benefits at the beginning of the year will not provide more than \$1,800 per year at retirement. Of course, if you are covered in any other plan, these exceptions do not apply.

### Modified Adjusted Gross Income (MAGI)

If you are an active participant, you must look at your MAGI for the year (if you and your spouse file a joint return you use your combined MAGI) to determine whether you can make a deductible Traditional IRA contribution. Your tax return will show you how to calculate your MAGI for this purpose. If you are at or below a certain MAGI level, called the threshold level, you will be able to make a fully deductible contribution.

#### (b.) Deductibility Limits

Single and joint filers who are active participants may receive a full or partial deduction for their contributions based on their income thresholds. The following tables illustrate these threshold levels and deductibility.

Except for married individuals filing separately, the MAGI limits will be indexed to reflect inflation in the future. If you are an active participant and are married and file a separate return, you may receive a partial deduction for MAGI between \$0 and \$9,999.99 and no deduction for MAGI of \$10,000 or more.

#### Single Filer Who Is Active Participant Allowable IRA Deduction

Tax Year	Full Deduction for a MAGI of:	Partial Deduction for a MAGI Between:	No Deduction for a MAGI of:
2009	\$55,000 or less	\$55,000 --- \$65,000	\$65,000 or more
2010	\$56,000 or less	\$56,000 --- \$66,000	\$66,000 or more

#### Joint Filer Who Is Active Participant Allowable IRA Deduction

Tax Year	Full Deduction for a MAGI of:	Partial Deduction for a MAGI Between:	No Deduction for a MAGI of:
2009	\$89,000 or less	\$89,000 --- \$109,000	\$109,000 or more
2010	\$89,000 or less	\$89,000 --- \$109,000	\$109,000 or more

#### Joint Filer Who Is Not Active Participant With Spouse Who Is Active Participant Allowable IRA Deduction

Tax Year	Full Deduction for a MAGI of:	Partial Deduction for a MAGI Between:	No Deduction for a MAGI of:
2009	\$166,000 or less	\$166,000 --- \$176,000	\$176,000 or more
2010	\$167,000 or less	\$167,000 --- \$177,000	\$177,000 or more

If you are married but file a separate tax return, your spouse's active participation does not affect your ability to make deductible contributions if you and your spouse lived apart at all times during the year.

Active participants who are entitled to partial deductions determine their deductibility amount using the following formula:

$$(\$10,000 - \text{Excess MAGI}) \times \frac{\text{Maximum Contribution} - \$10,000}{\$10,000} = \text{IRA Deduction}$$

For purposes of this formula, the maximum contribution amount includes catch-up contributions, if applicable. The \$10,000 amount in the above formula is increased to \$20,000 for joint filers. "Excess MAGI" is equal to MAGI minus threshold level. When computing the amount of a partial deduction, you must round up the result to the next highest \$10 level (the next highest number which ends in zero). For example, if the result is \$1,525, you must round it up to \$1,530. If the final result is below \$200 but above zero your deduction limit is \$200. Your contribution limit cannot, in any event, exceed compensation limits described above.

#### Example 1:

Ms. Smith, a single person over age 50, is an active participant and has a MAGI of \$57,550 in 2009. She calculates her deductible 2009 Traditional IRA contribution as follows:

- Her MAGI is \$57,550.
- Her threshold level is \$55,000.
- Her Excess MAGI is (MAGI - threshold level) or (\$57,550 - \$55,000) = \$2,550.
- Her maximum allowable contribution is \$6,000 (annual contribution plus catch-up contribution).

So, her Traditional IRA deduction limit is:

$$(\$10,000 - \$2,550) \times (6,000/\$10,000) = \$7,450 \times .60 = \$4,470 \text{ (rounded to } \$4,470\text{)}.$$

**Example 2:**

Mr. and Mrs. Young file a joint tax return in 2009 and both are under age 50. Each spouse earns more than \$5,000 and both are active participants. They have a combined MAGI of \$91,000. They may each contribute to a Traditional IRA and calculate their deductible contributions to each Traditional IRA as follows:

- Their MAGI is \$91,000.
- Their 2009 threshold level is \$89,000.
- Their Excess MAGI is (MAGI -- threshold level) or (\$91,000 – \$89,000) = \$2,000.
- The maximum allowable contribution for each spouse is \$5,000.

So, each spouse may compute his or her Traditional IRA deduction limit as follows:

$$(\$20,000 - \$2,000) \times (\$5,000/\$20,000) = \$18,000 \times .25 = \$4,500 \text{ (rounded to } \$4,500\text{)}.$$

**Example 3:**

In 2009, Mr. and Mrs. Green file a joint tax return. Mr. Green is under age 50 and an active participant in his employer's 401(k) plan. Mrs. Green is over age 50 and is not an active participant. Their MAGI is \$150,000. Each spouse contributes the maximum amount to a Traditional IRA for tax year 2009. Mr. Green cannot deduct any of his contribution since he is an active participant and their MAGI is above his 2009 threshold of \$109,000. Mrs. Green may deduct her full \$6,000 contribution due to the fact her "active participant" status is considered independently from Mr. Green's and their MAGI is under \$166,000.

**(c.) Tax Credit**

You may be eligible for a nonrefundable tax credit of up to 50 percent of the first \$2,000 of "qualified retirement savings contributions," provided your adjusted gross income is within specified limits. "Qualified retirement savings contributions" include contributions to a Traditional IRA, Roth IRA, elective deferrals to a qualified retirement plan, elective deferrals under an eligible deferred compensation plan maintained by a state or local government and voluntary employee contributions to a qualified retirement plan.

The amount of the tax credit is calculated by multiplying the first \$2,000 of your "qualified retirement savings contributions" by the applicable percentage, which is determined in accordance with the following table for 2009:

**2010 TAX CREDIT TABLE**

Joint Return		Head of Household		Percent
Over	Not Over	Over	Not Over	
0	\$33,500	0	\$25,125	50%
\$33,500	\$36,000	\$25,125	\$27,000	20%
\$36,000	\$55,500	\$27,000	\$41,625	10%
\$55,500				0%

  

All Other Cases		Percent
Over	Not Over	
0	\$16,750	50%
\$16,750	\$18,000	20%
\$18,000	\$27,750	10%
\$27,750		0%

For example, if you are single and have an AGI of \$16,500 in 2009 and you make a contribution of \$3,000 to your Traditional IRA and make no other "qualified retirement savings contributions," you will be eligible for a nonrefundable tax credit equal to \$1,000 (50 percent x \$2,000).

For purposes of calculating the tax credit, your "qualified retirement savings contributions" may be reduced by certain distributions from certain retirement plans and IRAs made in the same tax year, the two previous tax years and the period after the tax year and before the due date for filing your return for the tax year. Distributions received by your spouse are treated as distributions to you for purposes of reducing your "qualified retirement contributions" if you file a joint return for the tax year in which your spouse received the contribution. If you believe that you may be eligible for the tax credit, contact your tax advisor.

The AGI limits for this tax credit will be increased by the IRS from time to time to reflect cost of living adjustments.

**C.4 May I make a nondeductible contribution?**

Even if you are above the threshold level (explained in (b) of Question C3) and thus may not make a deductible contribution, you may still contribute up to the lesser of 100 percent of compensation or the maximum contribution described in C2.

Remember, however, that this contribution limit applies to your total contributions to all of your IRAs (both Traditional and Roth IRAs). The amount of your contribution that is not deductible will be a nondeductible contribution to the Traditional IRA. You may also choose to make a contribution nondeductible even if you could have deducted part or all of the contribution. Interest or other earnings on your Traditional IRA contributions will not be taxable until you make withdrawals from your Traditional IRA.

If you make a nondeductible contribution to a Traditional IRA, you must report the amount of the nondeductible contribution to the IRS by filing Form 8606 Nondeductible IRAs with your tax return for the year for which the contribution is made.

**C.5 Can my spouse have a Traditional IRA?**

**Yes.** He or she may establish and contribute to a Traditional IRA under the same rules just discussed for you. The total both of you may contribute to both Traditional IRAs is the lesser of your combined compensation for that year, reduced by any contributions made to your Traditional or Roth IRAs for that year, or the maximum contribution allowed for you plus the maximum contribution allowed for your spouse (see table in section C2). To take advantage of a spousal contribution, you must file a joint federal tax return for that year and your spouse must be younger than age 70½ at the end of the year. A spousal contribution can be made even if an annual contribution is not made to the working spouse's Traditional IRA, or the working spouse is over age 70½.

## **C.6 May my employer contribute to my Traditional IRA for me?**

**Yes.** Your employer may make an after-tax contribution to your Traditional IRA under the annual (and/or catch-up) contribution rules. Generally, contributions by your employer reduce on a dollar-for-dollar basis the amount you may contribute to your IRA. A contribution made by a business may be treated as wages, as a dividend or other taxable event.

If, however, your employer has a simplified employee pension plan (SEP) or a SIMPLE IRA retirement plan and you are a participant, the amount your employer contributes for you under the SEP or SIMPLE IRA retirement plan does not reduce the amount you may contribute to your Traditional IRA but may reduce the deductible amount of your contribution by making you an “active participant.”

Your employer may make payments to your SEP IRA of up to 25 percent of your compensation (subject to a compensation limit, \$245,000, in 2010 as indexed) or \$49,000 in 2010 (subject to IRS limits as indexed), whichever is less. In addition to your employer’s contributions, you may make an annual contribution to your own Traditional IRA as described above. SEP IRA and SIMPLE IRA contributions made by your employer are excluded from your income rather than deducted by you on your tax return.

## **C.7 When may I contribute to my Traditional IRA?**

Traditional IRA contributions for a calendar year taxpayer may be made at any time during the calendar year or no later than April 15 of the following year. This applies even if you receive an extension for filing your return. If you make a contribution after the end of the calendar year (but no later than April 15) that is intended to be a contribution for the prior year, you must inform the Custodian in writing at the time of your deposit.

If you served in or in support of the armed forces in a designated combat zone or qualified hazardous duty area, you may have a special extended contribution period to make IRA contributions for the prior year. Consult your tax advisor for more information about this special extension.

## **D. ROLLOVER CONTRIBUTIONS.**

### **D.1 What is a rollover contribution?**

A rollover contribution is a deposit to a Traditional IRA of funds you receive as a qualified distribution from either an employer retirement plan, another Traditional IRA (including a SEP IRA) or a SIMPLE IRA. A rollover contribution allows you to continue deferring income tax on the amount you roll over and its subsequent earnings. You may also rollover distributions from an eligible state or local government deferred compensation plan (section 457 plan) into a Traditional IRA. However, you should note that dollars distributed from your Traditional IRA may, in some instances, be subject to less favorable tax treatment than dollars distributed from your employer’s retirement plan. A rollover is often complex and we suggest you seek professional tax advice before receiving and rolling over a distribution.

### **D.2 What is an employer retirement plan?**

Generally, employer retirement plans are pension, profit sharing, thrift, employee stock ownership, stock bonus, SIMPLE IRA retirement or self-employed retirement plans. They also include annuity plans for employees of certain tax-exempt employers and certain governmental retirement plans.

### **D.3 What employer retirement plan distributions may be rolled over into a Traditional IRA?**

Most distributions received from employer retirement plans (generally all distributions except certain periodic distributions, excess contributions, required distributions after reaching age 70½, hardship distributions and dividend distributions from certain ESOPs) may be rolled over to Traditional IRAs. Participants who receive eligible distributions who do not choose to have these distributions directly rolled over into a Traditional IRA or an employer retirement plan are subject to 20 percent federal income tax withholding on the eligible rollover distribution.

Distributions from eligible governmental 457 plans may also be rolled over into Traditional IRAs — certain restrictions may apply. Also, after-tax contributions made to an employer retirement plan may be rolled over to a Traditional IRA. However, after-tax contributions rolled over from an employer retirement plan to a Traditional IRA cannot be rolled back into another employer retirement plan.

### **D.4 Must I roll over the entire amount of a distribution?**

**No.** You may keep some of the funds and “roll” the remaining amount into a Traditional IRA. The amount rolled into a Traditional IRA will not be taxed until withdrawn and will continue earning income on a tax-deferred basis. The amount not rolled over will be taxed under the regular rules for taxing distributions from plans. Again, we suggest that you seek professional tax advice before you receive your distribution.

### **D.5 If I receive a distribution from an employer’s retirement plan, what options do I have for the money I receive?**

The options available to you are listed below. You may: (a) Request that your employer transfer your funds to your Traditional IRA. Inform your employer prior to the distribution that you wish the funds to be transferred to a Traditional IRA (or to your new employer’s retirement plan if that plan accepts rollovers). You must determine what institution you want the transfer to be sent to and complete the necessary paperwork from your employer and the receiving institution, prior to the date the distribution will be made. Your employer should inform you of the necessary deadlines for submitting direct rollover instructions. If your employer has not communicated with you and you’re nearing your distribution date, you need to contact them immediately.

(b) Receive the distribution yourself. If your employer makes your distribution check payable to you, your distribution will be subject to 20 percent federal income tax withholding. Once this distribution is made to you, you may:

(i) Roll over all or any portion of the eligible amount into a Traditional IRA — you have 60 days in which to do this. You may make up the amount withheld in taxes by replacing those funds. If you do not replace the funds and roll over the distribution, less the 20 percent amount withheld, you may owe taxes and possible tax penalties on the amount that was not rolled over.

(ii) You may keep your entire distribution. If you choose this option, in addition to the 20 percent federal income tax withholding, you may be required to pay a 10 percent tax penalty, as well as state and federal income taxes, on the taxable amount of your distribution.

#### **D.6 May I roll over distributions from another IRA?**

You may roll over to your Traditional IRA amounts you withdraw from another Traditional IRA (including a SEP IRA) as long as you have not rolled over those amounts in the previous 12 months. You may also roll over to your Traditional IRA part or all of a distribution you receive from a Traditional IRA by reason of the death of your spouse. You may not roll over to your Traditional IRA any part of a distribution you receive from another Traditional IRA by reason of the death of anyone other than your spouse. You may roll over to your Traditional IRA amounts that are distributed from a SIMPLE IRA if you participated in the SIMPLE IRA for at least two years. You may not roll over to your Traditional IRA amounts distributed from a Roth IRA or Coverdell Education Savings Account.

#### **D.7 Is there a deadline for making a rollover contribution?**

**Yes.** You must complete a rollover contribution within 60 days after you receive a qualified distribution from your employer's retirement plan or a distribution from another eligible IRA. If you do not complete the rollover within the 60-day period, the amount of the distribution will be taxable as ordinary income for the year in which it was received and may be subject to penalties as explained in Question E2. The IRS may, in some very limited instances such as in case of a disaster, casualty or other events beyond your reasonable control, waive the 60-day limitation. You should contact your tax advisor if you believe that you may qualify for a waiver.

#### **D.8 May I make a rollover from my Traditional IRA into my employer's retirement plan?**

Generally, you may make a rollover from your Traditional IRA into your employer's retirement plan (if your employer's plan permits). The receiving plan may place restrictions on the type of distributions it accepts as rollovers. Only the taxable amount of a distribution may be rolled over from a Traditional IRA into an employer retirement plan. The rules regarding determining the taxable amount of a distribution from a Traditional IRA that is rolled over to a workplace retirement plan are different from the rules described in Question E3. In general, the amount rolled over is treated as first coming from deductible contributions and earnings and then from nondeductible contributions (or other after-tax amounts rolled over from an employer retirement plan). You should seek professional tax advice if you plan on making a rollover contribution to a new employer's retirement plan.

#### **D.9 May a beneficiary's distribution be rolled over or transferred?**

If you are a spouse beneficiary and receive a partial or total distribution that could have been rolled over by your spouse before distribution over in the same manner your deceased spouse could have. A spouse may also be able to roll this distribution into another employer retirement plan subject to limitations imposed by the receiving plan. In addition, if you receive a distribution from your former spouse's employer's retirement plan as an "alternate payee" pursuant to a "qualified domestic relations order," you may be able to roll over all or part of the distribution to your Traditional IRA.

A direct transfer from a deceased employee's employer's retirement plan (including plans maintained under Code sections 401(a), 403(a), 403(b) and plans maintained under Code section 457(b) by a state or local government) to a Traditional IRA established on your behalf can be treated as an eligible rollover distribution if you are the designated beneficiary of the deceased employee's plan benefit. You do not have to be the deceased employee's spouse for this special rule to apply.

The Traditional IRA is treated as an inherited Traditional IRA and is subject to the required minimum distribution rules.

As an inherited IRA, the inherited Traditional IRA may not accept contributions or later be rolled over to another IRA or retirement plan.

#### **D.10 May I transfer funds directly from one Traditional IRA to another?**

Yes. Instead of making a rollover contribution, you may transfer funds held in a previously established Traditional IRA to a new Traditional IRA by giving directions for the transfer to the Trustee/Custodian of each Traditional IRA. Transfers are not subject to the "once in 12 months rule" of rollover contributions.

#### **D.11 May I transfer funds directly from my Traditional IRA to my HSA?**

If you are otherwise eligible to make contributions to a health savings account ("HSA"), you may elect to make a once in a lifetime transfer from your Traditional IRA to your HSA on a tax-free basis. The transfer election is irrevocable. This special transfer only applies to amounts in your Traditional IRA that would otherwise be taxable if distributed. Special rules apply to determine the amount that may be transferred. Transfers from SEP IRAs and SIMPLE IRAs to HAS's are not permitted.

The transfer amount is limited to the maximum HSA contribution amount for the tax year for your type of high deductible health plan ("HDHP") coverage (i.e., self-only or family coverage) and reduces the amount of HSA contributions that you may make for the same tax year. In the year in which you make a special transfer from your IRA, you may make a second transfer, but only if the second transfer is a result of converting from single to family coverage under the HDHP.

You must remain eligible to make HSA contributions for the 13-month period beginning with the month in which the transfer is made to your HSA to avoid income tax and a 10 percent penalty tax on the amount transferred. The income tax and 10 percent penalty tax is waived if your loss of coverage under the HDHP is due to your death or "disability." Please consult your tax advisor for more details about this special new rule, including the meaning of "disability," determining the amount that may be transferred and any future guidance from the IRS.

#### **D.12 May I repay a distribution I took in connection with Hurricanes Katrina, Rita and/or Wilma?**

If you took a "qualified hurricane distribution" from your IRA or another eligible retirement plan under the tax relief provided for Hurricanes Katrina, Rita and/or Wilma, you may be able to repay the distribution to your Traditional IRA as a rollover contribution and avoid taxes on the distribution. The repayment must be made within three years after the "qualified hurricane distribution." Please consult your tax advisor for more information if you think that you may be eligible for this special repayment opportunity.

### **E. WITHDRAWALS FROM YOUR TRADITIONAL IRA**

#### **E.1 When may I make a withdrawal from my Traditional IRA?**

You may withdraw funds from your Traditional IRA at any time before or after you retire. If, however, you make withdrawals before age 59½, you may be subject to tax penalties on the amounts withdrawn as explained in E2.

#### **E.2 What is the early withdrawal penalty?**

If you make a withdrawal before age 59½ and do not roll over the amount withdrawn, you will have to pay a 10 percent federal tax penalty on the taxable amount withdrawn, unless you qualify for one of the exceptions to the 10 percent penalty tax. These exceptions include:

- (a) Distributions on account of your permanent disability;
- (b) Distributions made to your designated beneficiary after your death;
- (c) Distributions made as a series of substantially equal periodic payments (not less frequently than annually) made for your life or life expectancy, or for the joint lives or life expectancies of you and your beneficiary;
- (d) Distributions for medical expenses to the extent that the distributions do not exceed your unreimbursed, deductible medical expenses in excess of 7.5 percent of your adjusted gross income;
- (e) Distributions used to pay health insurance premiums while you are unemployed. The exception only applies if you receive unemployment compensation for 12 consecutive weeks under federal or state law, and the distributions are made during the tax year in which the unemployment compensation is paid or during the next tax year. This exception does not apply to distributions made after your reemployment, if you have been employed for at least 60 days after your initial separation from service.
- (f) Distributions used to pay qualified higher education expenses. Qualified higher education expenses are postsecondary education expenses (tuition, fees, books, supplies equipment and certain room and board if the of qualified higher education expenses is reduced for certain scholarships);
- (g) Distributions used within 120 days by a "first time home buyer" to pay certain costs of acquiring a principal residence. Permissible acquisition costs include the costs of acquiring, constructing, or reconstructing a residence, including reasonable settlement, financing or other closing costs. A "first time home buyer" can be you or your spouse, or a child, grandchild or ancestor of you or your spouse. The first time home buyer and his or her spouse cannot have owned a home for two years prior to receiving the distribution and there is a lifetime dollar limitation of \$10,000;
- (h) Distributions made after 1999 on account of a federal tax levy on your Traditional IRA; and
- (i) Distributions that are "qualified reservist distributions." You are eligible for a "qualified reservist distribution" from your IRA if you were ordered or called to active duty after September 11, 2001 for a period of more than 179 days (or for an indefinite period) because you are a member of a "reserve component" and the distribution was made no earlier than the date of the order or call to active duty and no later than the end of the active duty period. A "reserve component" is any of the following units: Army National Guard of the U.S., Army Reserve, Naval Reserve, Marine Corps Reserve, Air National Guard of the U.S., Air Force Reserve, Coast Guard Reserve or the Reserve Corps of the Public Health Service.

The tax penalty is in addition to the income taxes which are payable on the amount withdrawn. Please consult your advisor to determine if these exceptions apply to your particular situation.

### E.3 How are withdrawals taxed?

Because nondeductible Traditional IRA contributions are made using income which has already been taxed (that is, they are not deductible contributions), the portion of the Traditional IRA distributions consisting of nondeductible contributions will not be taxed again when received by you. Similarly, after-tax contributions you rolled over from an employer retirement plan to your Traditional IRA are not taxed again. If you have made any nondeductible Traditional IRA contributions or rolled over after-tax amounts from an employer retirement plan, each distribution from your Traditional IRA will consist of a nontaxable portion (return of nondeductible contributions/after-tax amounts) and a taxable portion (return of deductible contributions and account earnings).

Thus, you may not take a distribution that is entirely tax-free. The following formula is used to determine the nontaxable portion of your distribution for a taxable year:

$$\frac{\text{Total nondeductible/after tax contributions less previous non taxable distributions}}{\text{Year end total IRA account balances (plus distributions for the year)}} \times \text{Distributions for the year} = \frac{\text{Total distributions for the year}}{\text{Non taxable distributions for the year}}$$

To figure the year-end total IRA account balance, you treat all your IRAs as a single IRA, including all of your Traditional IRA and Rollover IRAs. You also add back any distributions made during the year.

#### **Example:**

An individual makes a \$2,000 Traditional IRA contribution in 2007, \$1,500 of which is deductible. He did not make any prior IRA contributions. In 2008, he makes a \$2,000 Traditional IRA contribution to another Traditional IRA account, none of which is deductible. In 2009, he makes no IRA contributions and \$1,000 is withdrawn from the Traditional IRA to which he contributed in 2007. On December 31, 2009, the aggregate account balance in both Traditional IRAs is \$4,000. (This balance includes earnings.) The nontaxable portion of the \$1,000 distribution taken in 2009 is figured as follows:

$$\frac{\text{Total nondeductible/after tax contributions less previous non taxable distributions}}{\text{Total account balance in the IRAs as of 12.31.09 (including distributions in 2009)}} = \frac{\$2,500}{\$4,000 + \$1,000 \times \$1,000} = \$500$$

Thus, \$500 of the \$1,000 distribution in 2009 will not be included in the individual's taxable income. The remaining \$500 will be taxable. You should consult with a professional tax advisor prior to making withdrawals from your IRA and when determining the tax consequences of any withdrawal.

### E.4 How is income tax withheld?

Federal tax laws require us to generally withhold 10 percent of each withdrawal by you for payment of your federal income taxes, unless you instruct us not to withhold. Additionally, certain states require us to withhold from your distribution. Please consult your state tax authority to determine if your state requires withholding.

### E.5 What are the methods of withdrawal from my IRA?

You may make a withdrawal from your Traditional IRA at any time, although any restrictions and penalties applicable to the investments you have chosen for your IRA will apply.

Please note that the special tax rules relating to lump-sum distributions from tax-qualified employer plans do not apply to Traditional IRAs.

## **E.6 When must I start making withdrawals?**

You may incur a federal tax penalty if you do not start making withdrawals on or before April 1 of the year following the year in which you become age 70½. Before that date, you must either withdraw the balance from your account or begin making periodic withdrawals that are at least as great as the minimum amount you are required to withdraw for that year under federal laws. You may elect to receive the minimum amount that applies to your Traditional IRA from another Traditional IRA. If you make this election you must notify the Custodian. The federal tax penalty is 50 percent of the difference between the minimum amount you are required to withdraw and the amount you actually withdrew in that year.

If you have a good reason for failing to make a minimum withdrawal, explain your reason to the IRS and they may waive the penalty.

If you do not begin taking the required withdrawals from your Traditional IRA (or notify the Custodian that you have elected to make the required withdrawals from another Traditional IRA), The Custodian may (but is not required to) distribute the required minimum withdrawals to you based on the uniform life expectancy table published by the IRS.

## **E.7 What is the minimum amount I must withdraw after age 70½?**

Generally, after age 70½, the minimum amount you must withdraw each year to avoid the 50 percent federal tax penalty is by your age published by the IRS on the uniform life expectancy table. If you name your spouse as the sole primary beneficiary of your Traditional IRA for the entire year and your spouse is at least 10 years younger than you, the appropriate factor is found in the IRS's Joint Life and Last Survivor Expectancy table, which will further reduce the amount of your required distribution.

IRS Publication 590 explains the rules for determining the minimum amounts you must withdraw.

It is your responsibility to notify us of the dollar amount that you wish to receive as a required minimum distribution and when you wish to receive it. If the balance in your Traditional IRA at the time set for distribution is less than the distribution amount you have specified, we will distribute only that balance. Except as provided below, we are not responsible for determining the required minimum distribution amount. We will provide you with a notice each year that either (a) indicates the required minimum distribution and deadline for distribution or (b) notifies you that a required minimum distribution is due and the deadline for such distribution and offer to calculate the required minimum distribution upon your written request.

The IRS will be advised on IRA Form 5498 if a required minimum distribution is due from your Traditional IRA. These reporting requirements only apply to you (or to your eligible spouse who elects to treat the Traditional IRA as his or her own). We may, but are not required to, provide such reports to your beneficiary.

## **E.8 What happens to my Traditional IRA when I die?**

Your account balance will be paid to your beneficiary. Your beneficiary is the person or persons you designate when you open your Traditional IRA. You may change your beneficiary designation at any time by contacting us and submitting a beneficiary change form before your death. Each beneficiary designation you file with us will cancel all previous designations. A beneficiary is subject to and bound by all the terms and conditions of the Traditional IRA Custodial Agreement and Disclosure Statement. A beneficiary is required to complete and submit any and all forms deemed necessary by the Custodian in order to process a transaction such as a distribution or transfer.

If you invest all or a portion of your IRA in an annuity, the annuity is an investment within the IRA. If you invest all or a portion of your IRA in an annuity, then your account balance will be paid in accordance with either the beneficiaries you designate on your IRA or the default beneficiary provisions of this Agreement. When an annuity is held in your IRA, a spouse beneficiary may have spousal rights (i.e. spousal continuation) that he or she may be able to exercise upon your death. If you designate a non-spouse beneficiary (someone other than your spouse), upon your death any annuity will be liquidated. The annuity carrier will transfer the proceeds to your IRA to be distributed in accordance with the beneficiary designation on file with the Custodian.

If a designated beneficiary (including any contingent beneficiary) does not survive you, such beneficiary's interest shall lapse, and the percentage interest of any remaining beneficiary (including any contingent beneficiary) shall be increased on a pro rata basis unless your beneficiary designation provides otherwise.

If a designated beneficiary (including any contingent beneficiary) does not survive you or if there is no record of a designated beneficiary, your Traditional IRA balance will be paid to your spouse. If you are not survived by a spouse, your account will be paid to your surviving children as determined under state law. In such case, a legal or personal representative is required to provide us with a written certification listing the names of your surviving children as determined under state law. If there is no legal or personal representative, then a court order may be required. If you are not survived by a spouse or by any of your children, as certified by your legal or personal representative or by a court order, then your Traditional IRA will be paid to your estate.

If you are divorced at the time of your death and your former spouse is named as beneficiary of your Traditional IRA, your former spouse will be treated as having predeceased you, unless you designated him or her as your beneficiary AFTER the divorce or unless a court order provides otherwise. The Custodian may pay to your surviving spouse such amount of your IRA to which he or she demonstrates to the satisfaction of the Custodian that he or she is entitled under marital or community property laws to the extent that you have not designated your surviving spouse to receive such amount as a beneficiary, unless your spouse has properly consented in writing otherwise. You understand that the Custodian may reasonably delay payment to your beneficiaries to the extent necessary for the Custodian to determine whom to pay and the proper amounts. It is your responsibility to determine whether such laws apply and to request your spouse to consent to your beneficiary designation if appropriate. You understand that the Custodian is not responsible if the Custodian has made payment in good faith to a party other than your surviving spouse and at your surviving spouse may not recover such amount paid from the Custodian.

If you die after you are required to begin minimum distributions, the minimum distribution for the year of your death may be paid to your beneficiary under the method of payment in effect at the time of your death. In the year following your death, your beneficiary is required to receive at least minimum distributions based on the longer of the beneficiary's or your remaining life expectancy. If your beneficiary is not an individual (such as an estate), required minimum payments will be based on your remaining life expectancy determined in the year of your death and reduced by one each subsequent year. If you name a trust that meets certain requirements, the beneficiaries of the trust will be treated as the beneficiaries of your Traditional IRA for purposes of determining the appropriate life expectancy under the required minimum distribution rules. Your beneficiary may always accelerate payments.

If you die before you are required to begin minimum distributions, your account balance must be paid to your beneficiary over a period not extending beyond his/her life expectancy. These withdrawals must begin in the year following your death. If your spouse is your sole beneficiary, he or she may defer making withdrawals until the date you would have become age 70½. A spouse beneficiary may roll funds over into his or her own Traditional IRA. If your spouse is your sole beneficiary, he or she may also elect to treat the Traditional IRA as his or her own. If you name a beneficiary that is not an individual (such as an estate or non-qualifying trust), the balance of your Traditional IRA must be distributed by December 31 of the fifth full year after your death. Your beneficiary for purposes of calculating required minimum distributions after your death is determined on September 30 of the year after the year in which you die. Generally, if you have more than one beneficiary, the oldest beneficiary's life expectancy is used to calculate the required minimum distributions described above. However, it may be possible for each of your beneficiaries to use his/her own life expectancy to calculate the required minimum distributions if the separate account rules are satisfied. For the separate account rules to apply, your beneficiary designation must create separate interests for the beneficiaries as of your death and separate inherited Traditional IRAs must be established by December 31

of the year after your death to use each beneficiary's life expectancy to calculate the required minimum distributions for the following year. The separate account rule does not apply if your beneficiary is a trust.

If you have more than one beneficiary who is entitled to benefits from your account after you die, each beneficiary's interest in your IRA will be considered to be a subaccount for purposes of determining required minimum distributions. The distribution rules will then be applied to each beneficiary's benefit.

For the period from the date of your death until the establishment of the separate inherited Traditional IRAs, all post-death investment interest will be allocated to the separate inherited Traditional IRAs on a pro rata basis in a reasonable and consistent manner among the separate IRAs. Any post-death distributions must be allocated to the separate inherited Traditional IRA of the beneficiary receiving that distribution.

In all cases, withdrawals will be subject to the required minimum distribution rules published by the IRS. Withdrawals of less than required minimums may result in federal tax penalties.

If your beneficiary does not begin withdrawals within the required period and after the Custodian receives notice of your death, the Custodian may, but is not required to, distribute the assets of your Traditional IRA to your beneficiary in a single sum. Your beneficiaries may further designate beneficiaries of their portion of your IRA after your death (subject to any restriction under state law), by contacting us and we will provide the necessary forms. For instance, if you designated your children Sue and Tom as equal beneficiaries, they each could designate subsequent beneficiaries upon inheriting their portion of your IRA. Sue could designate beneficiaries to receive payments after her death and Tom could designate his estate to receive payments after his death.

If no subsequent beneficiary designation is filed with us at the time of your beneficiary's death or there is no surviving beneficiary, the subsequent beneficiary will be your beneficiary's spouse. If your beneficiary does not have a surviving spouse, the subsequent beneficiary will be the beneficiary's children, as determined under state law. In such case, a legal or personal representative is required to provide us with a written certification listing the names of your beneficiary's surviving children as determined under state law. If there is no legal or personal representative, then a court order may be required. If your beneficiary is not survived by a spouse or by any of his/ her children, as certified by your beneficiary's legal or personal representative, then the inherited Traditional IRA will be paid to your beneficiary's estate. Any subsequent beneficiary who inherits your IRA must continue to receive payments under the same schedule established by the original beneficiary. However, a subsequent beneficiary may choose to receive payments greater than the minimum payment amount.

If you are the beneficiary or subsequent beneficiary of a Traditional IRA, you should seek professional tax advice prior to making withdrawals.

#### **E.9 Will my beneficiary have to pay income tax on my Traditional IRA?**

**Yes.** Payments from your Traditional IRA will be taxable to your beneficiary as income received (except for the portion of the payment, if any, which represents a tax-free return of nondeductible contributions or after-tax amounts rolled over to your Traditional IRA from an employer retirement plan; you should retain your most recently filed IRS Form 8606 with your beneficiary designations or important papers so that your beneficiary will have the proper documentation to determine what portion of your account has already been taxed). However, most beneficiaries will have the ability to take distributions over a number of years to lessen the impact of taxation. By seeking professional tax advice regarding how to choose and designate your primary and contingent beneficiaries, you can give them the flexibility to take the entire amount in one distribution or spread the distributions out in order to lower the amount of taxable income recognized each year.

Special rules also allow your spouse to roll your Traditional IRA into his or her own Traditional IRA and defer taking distributions until his or her required beginning date. If your spouse is your sole beneficiary, he/she may continue to treat the Traditional IRA as your own and defer the starting date for taking distributions until the date on which you would have been required to start taking minimum distributions.

#### **E.10 How about estate and gift taxes?**

Your entire account balance would be subject to federal estate tax. If your spouse is your beneficiary, the amount of your account balance may be a deduction for federal estate tax purposes. Your entire account balance may also be subject to any applicable state death taxes.

A transfer by you to your beneficiary of the right to receive distributions from your IRA may be subject to federal gift tax.

If a federal estate tax is paid by your estate upon your death, then the beneficiary of your Traditional IRA may be entitled to an income tax deduction for part of the estate tax paid. A qualified tax professional can help your beneficiary determine the amount of this deduction.

The federal estate tax will not apply to the estate of individuals who die after December 31, 2009. However, unless congressional action is taken, the estate tax will apply to the estates of individuals who die on or after January 1, 2011. For detailed information concerning estate and gift tax treatment consult your tax advisor.

### **E. CONVERSION OF A TRADITIONAL IRA TO A ROTH IRA**

#### **F.1 May I convert all or part of my Traditional IRA to a Roth IRA?**

Yes. If your adjusted gross income (for both single and joint filers) for the tax year is \$100,000 or less and you are not a married individual filing a separate return, you may convert all or part of your Traditional IRA (or SEP IRA) account balance to a Roth IRA. The \$100,000 limit and the joint filing requirement for married persons apply to the year that the funds are paid from the Traditional IRA, rather than the year they are contributed to the Roth IRA (if different). In addition, the \$100,000 limit does not include any taxable income related to the conversion or required minimum distributions for 2005 and later years. For tax years after 2009, the \$100,000 limit and married filing separately prohibition are eliminated. Any Traditional IRA amount converted to a Roth IRA must also satisfy the IRA rollover requirements discussed in Section D: Rollover Contributions, except that the one-rollover-per-year limitation does not apply. Once an amount is converted to a Roth IRA, it is treated as a Roth IRA for all purposes. Future contributions to a Traditional IRA or made under a SEP may not be made to the Roth IRA.

Because of the strict rules that apply to conversions and distributions taken from Roth IRAs within five years after a conversion, you should seek professional tax advice before converting your Traditional IRA to a Roth IRA.

#### **F.2 How do I convert my Traditional IRA (or SEP IRA) to a Roth IRA?**

You may convert all or part of your Traditional IRA (or SEP IRA) to a Roth IRA. One of the following methods may be used to perform the conversion: (1) take a distribution from your Traditional IRA (or SEP IRA) and contribute (roll over) the distribution to a Roth IRA within 60 days after the distribution; or (2) transfer an amount in your Traditional IRA (or SEP IRA) to your Roth IRA (including a Roth IRA maintained by the same trustee or custodian) in a trustee-to-trustee transfer. All conversions (no matter the method used) are treated as a taxable distribution and a rollover contribution.

#### **F.3 Will I be taxed on the conversion?**

Yes. The amount converted from your Traditional IRA will be included in your gross income (except for the portion of the converted amount, if any, which represents a tax-free return of your nondeductible contributions or after-tax amounts you rolled over to your Traditional IRA from an employer retirement plan). The distribution (or amount converted), however, will not be subject to the 10 percent additional tax on early distributions, regardless of whether you are under age 59½.

#### **F.4 When will I be taxed on the conversion?**

Generally, conversions will be taxed in the year of distribution from the Traditional IRA. However, the amount included in your gross income for any taxable year beginning in 2010 as a result of a conversion contribution will be included ratably over the two-year period beginning with the first taxable year beginning in 2011, unless you elect to include the entire taxable amount in your income for 2010. This election must be made in accordance with federal tax law instructions prior to the due date (including extensions) for filing your 2010 federal income tax. Once made, this election cannot be changed.

If you are spreading income from a 2010 conversion over the two-year tax period and you die before the full taxable amount has been included in your income, the balance of the tax will be taken into account in the year of your death. If your spouse survives you and is the sole beneficiary of all of your Roth IRAs, your spouse may irrevocably elect to recognize the income over the remainder of the two-year tax period. This election cannot be made or changed after the due date (including extensions) for filing the federal income tax return for your spouse's tax year that includes your date of death.

If you (or your surviving spouse) are spreading income from a 2010 conversion over the two-year tax period and you (or your surviving spouse) take a distribution in 2010 or 2011 of amounts allocable to the 2010 conversion, any income deferred is accelerated so that it is includible in income in the year of the distributions, up to the amount of the distribution allocable to the 2010 conversion. This amount is in addition to the amount otherwise includible in your income for that tax year as a result of the conversion, and cannot be more than the total amount of income required to be included over the two-year tax period.

#### **F.5 What if I convert all or part of my Traditional IRA to a Roth IRA and later discover that I have adjusted gross income of more than \$100,000? Can I "undo" the conversion? What happens if I do not "undo" the conversion?**

If certain requirements are met, you may re-characterize a "failed" conversion as a contribution to a Traditional IRA and "undo" the conversion. Re-characterizations are explained in more detail in Section G: Re-characterization of IRA Contributions. If you do not re-characterize a failed conversion, the conversion amount will be treated as an annual contribution to the Roth IRA and will be treated as an excess contribution to the extent that it exceeds your Roth IRA contribution limit. See Section H: Excess Contributions and Prohibited Transactions for more information about excess contributions, including the 6 percent excise tax on excess contributions and possible ways to correct excess contributions. In addition, if you do not re-characterize a failed conversion, distributions (or the amount converted) from the Traditional IRA will be subject to the additional 10 percent federal tax on early distributions (unless an exception applies).

#### **F.6 If I convert my Traditional IRA to a Roth IRA and later "undo" the conversion by re-characterizing it as a contribution back to a Traditional IRA, may I later reconvert the re-characterized contribution back to a Roth IRA?**

You should seek professional tax advice before reconverting any conversion contributions that have been re-characterized.

You cannot convert an amount during the same taxable year, or if later, during the 30-day period following a re-characterization. If you reconvert during either of these periods, your attempted conversion will fail.

If you reconvert amounts in violation of the rules, the "failed" reconversion is treated as a distribution from your Traditional IRA and an annual contribution to your Roth IRA (unless, after the impermissible reconversion, the amount is transferred back to a Traditional IRA by means of a re-characterization). An impermissible reconversion will otherwise be treated as a valid reconversion.

#### **F.7 If I am age 70½ or older, may I convert an amount from my Traditional IRA to a Roth IRA? May the conversion occur before I receive my required minimum distribution for the year of the conversion?**

If you are age 70½ or older, you may still convert all or part of your Traditional IRA to a Roth IRA. Because conversion amounts must satisfy the rollover rules (even if the conversion is in the form of a trustee-to-trustee transfer), you may not, however, convert amounts required to be distributed to satisfy the required minimum distribution rules. Since the first dollars distributed from an IRA are treated as consisting of the required minimum distribution for the year, you may not convert any amount in your Traditional IRA to a Roth IRA until the required minimum distribution for the Traditional IRA has been distributed for the year. This prohibition applies beginning with the year in which you reach age 70½ and all later years. See Section E: Withdrawals From Your IRA for more information about required minimum distributions.

However, if a required minimum distribution is contributed to a Roth IRA, it is treated as having been distributed and taxed under the normal Traditional IRA rules, and then contributed as an annual contribution to a Roth IRA. The amount of the required minimum distribution is not a conversion contribution.

### **G. RECHARACTERIZATION OF IRA CONTRIBUTIONS**

#### **G.1 May I re-characterize contributions made to my Traditional or Roth IRA for a tax year as contributions made to a different type of IRA?**

Yes. You may re-characterize your Traditional IRA contributions (including conversion contributions) for a tax year by transferring (in a trustee-to-trustee transfer) the Traditional IRA contributions (or a portion of the contributions) and the related earnings to a Roth IRA, and vice versa. The re-characterization must be completed before the due date for filing your federal income tax return (including extensions) for the tax year for which the contribution was made. The contribution will be treated as having been made to the second IRA on the same date and for the same taxable year as the contribution was originally made to the first IRA for federal tax purposes. Once a re-characterization is made it may not be revoked.

To calculate the net income that is required to be transferred as part of the re-characterization, you multiply the re-characterized amount by a fraction, the numerator of which is the difference between the "adjusted closing balance" and the "adjusted opening balance" and, the denominator of which is the "adjusted market value of the Traditional IRA at the beginning of the "computation period" plus the amount of any contributions or transfers (including the contribution that is distributed as a returned contribution and re-characterizations of contributions) made to the Traditional IRA during the "computation period." The "adjusted closing balance" is the fair market value of the Traditional IRA at the end of the "computation period" plus the amount of any distributions or transfers (including re-characterizations) made from the Traditional IRA during the "computation period." The "computation period" is the period beginning immediately before the particular contribution is made to the Traditional IRA and ending immediately before the removal of the contribution being returned. If more than one contribution was made as an annual contribution and is being returned from the Traditional IRA, the "computation period" begins immediately before the first contribution being returned was contributed. For more information about the calculation of net income, see your tax advisor.

Because of the strict rules that apply to re-characterizations, you should seek competent tax advice before re-characterizing IRA contributions

#### **G.2 May I re-characterize an amount contributed to my Traditional or Roth IRA in a tax-free transfer?**

**No.** Amounts contributed to a Traditional or Roth IRA in a tax-free transfer (including a tax-free rollover) may not be re-characterized as contributions to the other type of

IRA. However, if you roll over or transfer an amount from a Traditional IRA to a SIMPLE IRA by mistake, the contribution may be subsequently re-characterized as a contribution to another Traditional IRA.

### **G.3 May I re-characterize amounts contributed by my employer on my behalf under a SIMPLE IRA plan or SEP?**

**No.** Employer contributions (including pre-tax contributions) made under a SIMPLE IRA retirement plan or a SEP may not be re-characterized as contributions to another type of IRA. However, a conversion from a SEP IRA or SIMPLE IRA to a Roth IRA may be re-characterized as a contribution to a SEP IRA or SIMPLE IRA (as applicable), including the original SEP IRA or SIMPLE IRA.

### **G.4 How do I make an election to re-characterize a contribution to an IRA for a tax year?**

On or before the date a transfer is made to re-characterize a contribution, you must notify both the trustee of the original IRA and the second IRA that you are electing to treat the contribution as having been made to the second IRA instead of the first IRA, for federal tax purposes. The notification must include the type and amount of the contribution to the first IRA that is to be re-characterized, the date on which the contribution was made to the first IRA and the year for which it was made, a direction to the trustee of the first IRA to transfer the amount of the contribution and earnings allocable to the contribution to the trustee of the second IRA, the names of the trustee of the first IRA and the second IRA, and any other information needed or requested the trustees to make the transfer.

You must report the re-characterization and treat the contribution as being made to the second IRA, instead of the first IRA on your federal income tax return for the applicable tax year in accordance with the federal tax forms and instructions.

### **G.5 If I initially make a contribution to an IRA for a tax year, then move the contribution (with related earnings) in a tax-free transfer to another IRA, can the tax-free transfer be disregarded, so that the original contribution that was transferred may be re-characterized?**

**Yes.** If an amount is contributed to a Traditional or Roth IRA for a taxable year and then is moved (with related earnings) in a tax-free transfer to another IRA of the same type, the tax-free transfer is disregarded and the initial contribution to the first IRA may be re-characterized, if done in a timely manner.

### **G.6 Is a re-characterization treated as a rollover for purposes of the one-rollover-per-year limitation?**

**No.** Re-characterizing a contribution is not treated as a rollover for purposes of the one-rollover-per-year limit.

## **H. EXCESS CONTRIBUTIONS AND PROHIBITED TRANSACTIONS.**

### **H.1 What is an excess contribution?**

An excess contribution is any amount you contribute to your Traditional IRA for a tax year that exceeds the maximum amount you are permitted to contribute for that tax year. There is a six percent federal tax penalty on an excess contribution for each year that it remains in your Traditional IRA.

### **H.2 How may I avoid the 6 percent penalty?**

If you withdraw the excess contribution for a year and any earnings or losses on it before the filing date of your income tax return for that year, including extensions (or any other time permitted by the IRS), you will not have to pay the 6 percent tax penalty in the same manner as net income on re-characterized contributions described in Question G1. If you do not withdraw the excess contribution by that date, you will be charged the 6 percent penalty for that year. In order to avoid subsequent tax penalties, you must either:

- a) contribute less than the maximum allowable contribution in later years, or
- b) withdraw the excess contribution in accordance with applicable rules.

#### **Example 1:**

If the maximum amount you are allowed to contribute in tax year Number 1 is \$2,000 and you contribute \$2,200, you may avoid the 6 percent tax penalty altogether if you remove the \$200 excess (\$2,200 – \$2,000) and any related earnings by April 15 of the following year.

#### **Example 2:**

If you do not remove the \$200 excess and earnings by your income tax filing date, you will have to pay a 6 percent penalty for tax year Number 1 of \$12. If in tax year Number 2 your maximum contribution is \$3,000, you could avoid reapplication of the penalty by contributing only \$2,800 in tax year Number 2 (\$3,000 – \$200).

### **H.3 What is a prohibited transaction?**

Generally, a prohibited transaction is any improper use of your Traditional IRA by you, your beneficiary or any disqualified person. Prohibited transactions include such actions as you selling property to your Traditional IRA or buying property from it. To learn more about prohibited transactions and who are disqualified persons, refer to IRS Publication 590.

### **H.4 What happens if I engage in a prohibited transaction?**

If you or your beneficiary engages in a prohibited transaction, your Traditional IRA will lose its tax-exempt status and you will have to include the entire balance (subject to any applicable basis therein) in your taxable income for that year. Furthermore, you will be subject to the 10 percent federal tax penalty on the entire balance unless you are over age 59½ or meet one of the other exceptions to the tax penalty. If someone other than you or your beneficiary engages in a prohibited transaction with respect to your Traditional IRA, that person may be liable for certain excise taxes.

### **H.5 May I use my Traditional IRA as security for a loan?**

You should not. If you use all or part of your Traditional IRA as security for a loan, the amount used would be considered a withdrawal made by you in that year. You would have to include that amount in your taxable income for that year. You would be subject to the 10 percent federal tax penalty on that amount unless you are over age 59½ or meet one of the other exceptions to the tax penalty.

## **I. INVESTMENTS.**

### **I.1 Who is responsible for investing my Traditional IRA assets?**

You are solely responsible for making any investment decision regarding your Traditional IRA assets. You may designate someone other than yourself to direct the investment of the assets in your Traditional IRA by executing a valid third party trading authorization or power of attorney on a form acceptable to the Custodian and by

naming a person or entity acceptable to the Custodian. All investment directions shall be given in a form that complies with the reasonable requirements and procedures imposed by the Custodian. Such requirement may include that certain representations and warranties accompany certain directions, including indemnification. You (or your duly authorized representative) are making all investment decisions, and thus the Custodian will have no investment responsibility (and neither the Custodian nor any of its employees will accept such responsibility) other than to make investments pursuant to your (or your duly authorized representative's) direction. The Custodian has no duty to and will not question such direction. In addition, The Custodian is indemnified and held harmless for any liability which may arise in the Custodians performance of its duties under the Custodial Agreement, except for any liability arising from the Custodian's gross negligence or willful misconduct.

## **I.2. What assets may not be held in my Traditional IRA?**

The Custodian, in its sole discretion, may refuse to hold any investment. Your Traditional IRA may not be invested in life insurance contracts and, except for investments pooled in a common trust fund or common investment fund, may not be commingled with other property. Further, assets in your Traditional IRA may not be invested in commodities, "collectibles," alcoholic beverages, or any other tangible personal property. The term "collectibles" includes works of art, rugs, antiques, metals, gems, stamps, coins (other than certain gold, silver or platinum coins of the United States or a state and certain bullion, if on the Custodian's approved list of investments). You also may not invest the assets of your Traditional IRA in any investment that the Custodian determines, in its sole discretion, is administratively or operationally burdensome.

The Custodian has no responsibility for monitoring your Traditional IRA investments. Thus, if you or your duly authorized representative direct the Custodian to engage in any non-qualifying or prohibited transaction or investment with respect to your Traditional IRA, neither the Custodian, its affiliates nor any of its employees or employees of its affiliates will be liable for any adverse investment, tax or other legal consequences that may result from such purchase. Also, if your investment direction results in a prohibited transaction, the tax-favored status of your Traditional IRA will be affected. See Section H: Excess Contributions and Prohibited Transactions for more information.

## **I.3 Is any interest earned on amounts awaiting investment or disbursement?**

The Custodian, or an affiliate of the Custodian, may retain any interest earned on assets awaiting investment or disbursement. You understand and agree that this interest (generally referred to as "float") will be retained by the Custodian as additional compensation for the provision of services provided by the Custodian with respect to your Traditional IRA. Such interest shall generally be a prevailing interest rate.

Assets awaiting investment include (a) new deposits to the Traditional IRA, including interest and dividends, and (b) any un-invested assets held by the Traditional IRA caused by an instruction to the Custodian to purchase or sell securities, where investment instructions are received too late in the day to be completed. The Custodian may also earn float on distributions from the time funds are distributed from your IRA until you cash the check or other payment method is completed.

## **I. OTHER QUESTIONS AND ANSWERS.**

### **Am I required to file any tax forms for my Traditional IRA?**

Generally, you will not be required to file any special forms for your Traditional IRA. However, you must file a Form 5329.

Additional Taxes on Qualified Plans (including IRAs) and Other Tax-Favored Accounts, with the IRS for any year for which: (1) you are subject to the 6 percent penalty for excess contributions; (2) you are subject to the 10 percent penalty for withdrawals before age 59½ and the proper distribution code is not shown on your Form 1099-R (Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.); (3) you meet an exception to the 10 percent penalty, but the proper distribution code is not shown on your Form 1099-R; or (4) you or your beneficiary are subject to the 50 percent penalty for failing to take a minimum distribution after you reach age 70½. Also, you must file a Form 8606 Nondeductible IRAs for any year in which you make a nondeductible contribution to your Traditional IRA, you received distributions from your Traditional IRA and your basis is more than zero or you convert all or any portion of your Traditional IRA into a Roth IRA.

### **Does the custodian report any information about my Traditional IRA to the Internal Revenue Service?**

All IRA custodians are required to report various IRA transactions to the IRS, Social Security Administration and the State Revenue Department.

Form 5498 reports annual, rollover and re-characterized contributions, plus the December 31 fair market value of your account. Form 5498 also reports if a required minimum distribution is required to be made to you for the following year.

Partial withdrawals, periodic distributions and total distributions are reported on Form 1099-R. Unrelated business taxable income is reported on Form 990-T.

### **How is a conversion of my Traditional IRA to a Roth IRA reported?**

A conversion of your Traditional IRA to a Roth IRA will be treated as a distribution from the Traditional IRA and a conversion contribution to the Roth IRA. We will report the distribution to the IRS and to you on Form 1099-R and the conversion contribution on Form 5498. You must report the conversion to the IRS by completing and filing Form 8606.

### **How are re-characterizations reported?**

If you re-characterize contributions made to an IRA, the trustee or custodian of the first IRA will report the contribution on Form 5498 as originally contributed. The trustee or custodian of the first IRA will also report the re-characterization as a distribution on Form 1099-R. For re-characterized amounts received by the second IRA, the trustee or custodian of the second IRA will report the contribution as a re-characterized contribution on Form 5498.

### **Are state tax laws the same as federal tax laws for IRAs?**

You should consult your professional tax advisor about the tax treatment of Traditional IRAs in your state. This is especially important if you are subject to taxation by a state that does not automatically conform to the provisions found in the federal tax code.

### **Can my Traditional IRA be changed?**

**Yes.** We may amend your Custodial Traditional IRA Disclosure Statement by sending you a copy of the change. You will be deemed to have automatically consented to any amendment, unless we receive written notice to the contrary within 30 days after a copy of the amendment is first sent to you. Any notice we send you will be delivered to the last address that we have for you in our records. Although other amendments may be made, generally amendments will be made only to comply with changes in tax law. No amendment can take any part of your IRA away from you or your beneficiary.

**How much will my account be worth when I'm ready to retire?**

The future value of your account will depend on your future contributions and the rate of return on your investments in your Traditional IRA. The assets in your Traditional IRA generally are not limited to any particular type of investment, and therefore it is impossible to project what your investment return will be or what your Traditional IRA assets will look like in future years.

**Will my Traditional IRA be charged any fees?**

**Yes**, all of the fees that may apply to your account are outlined in your new account documents. The Schedule of Fees may be changed from time to time, upon 30 days written notice to you. Please see the Schedule of Fees for more details. Please review your relevant account opening documents for descriptions of these fees. If you do not pay the Custodian's fees by the due date, the Custodian may deduct these fees from your Traditional IRA.

**What other rules apply to my Custodial Traditional IRA?**

If the Custodian receives any process, summaries, levy or similar order, you authorize the Custodian either to comply with the order or to refuse to honor the order, in the Custodian's sole discretion. The Custodian has no obligation to contest the order.