

Comment Letter on Simplification of Distribution Procedures for IRA Beneficiaries, August 2002

August 29, 2002

Mr. Steven Linder
Employee Plans, Tax Exempt and Government Entities Division
Internal Revenue Service
T:EP:RA:G
1111 Constitution Avenue, N.W.
Washington, DC 20224

Ms. Cathy Vohs
Office of the Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)
CC:TEGE:EB:QP1
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Notice 2002-27 and Final Regulations Under Code Section 401(a)(9)

Dear Mr. Linder and Ms. Vohs:

The Investment Company Institute¹ strongly supports efforts to simplify the procedures pursuant to which IRA beneficiaries receive required minimum distributions (RMDs). As the Institute has indicated previously,² this area is of great interest to Institute members, many of whom offer IRAs, qualified retirement plans, and section 403(b) arrangements to their shareholders.³

This letter provides our comments on two recent RMD simplification initiatives. First, with respect to the approach to IRA trustee reporting taken in Notice 2002-27 (which permits IRA trustees to offer to calculate RMD amounts—an approach we strongly support), we urge that (1) this offer to calculate alternative be retained permanently; and (2) the due date for reports calculating RMD amounts be moved from January 31 to a date no earlier than five business days following March 31 if the offer to calculate alternative is eliminated at some future date. Second, with respect to the calculation of RMD amounts contained in the final regulations under Code section 401(a)(9),⁴ we urge the issuance of guidance clarifying that, where a decedent's account is divided into separate accounts in a year after the year of death, disaggregation be permitted in calculating RMDs in the year the separate accounts are created.

The Reporting Regime Under Notice 2002-27

Under Notice 2002-27, an IRA trustee must provide certain information to an IRA owner by January 31 of a calendar year if:

- A minimum distribution is required with respect to the IRA for the calendar year;
- The IRA owner is alive at the beginning of the year; and
- The trustee held the IRA as of December 31 of the prior year.

IRA trustees have the option of providing either (1) a statement of the amount of the RMD for the calendar year and the date by which such amount must be distributed (Alternative One); or (2) a statement that (a) informs the IRA owner that a minimum distribution is required for the calendar year and the date by which such amount must be distributed, and (b) includes an offer to furnish the IRA owner, upon request, with a calculation of the amount of the RMD for that calendar year (Alternative Two).⁵ By its terms, however, Notice 2002-27 provides the IRA trustee reporting rules only for RMDs for calendar year 2003, and these rules may

be modified with respect to calendar years after 2003 in federal tax forms and accompanying instructions.

As we have indicated previously, we support the approach permitted in Alternative Two as providing a more accurate number for the IRA owner, and urge the Service to continue this approach in any future guidance. Among other things, the current regime allows mutual funds to include their offer to calculate in the year-end account statement that they are required to provide to shareholders within five business days of December 31.⁶ If this Alternative were not available, however, then the IRA trustee would not be able to complete the hundreds or thousands of calculations that would have to be performed in order to provide the RMD information in time to include it in the year-end statement. If the January 31 deadline set forth in Notice 2002-27 were to apply in this instance, therefore, funds would have to send a separate mailing to their IRA owners who are subject to the RMD rules at great expense. This expense does not appear to our industry to be necessary, especially since the distribution that the notice would be alerting them to need not be taken, under most circumstances, until December 31 of that year. We also note that financial services firms would be hard-pressed to find the system resources for such calculations, given their January reporting responsibilities with respect to client accounts in general.

We would therefore recommend that a later date be substituted for the January 31 date in the event that Alternative Two were not available at some later time. In order for funds to be able to include this information on a regularly produced statement, the deadline should be no earlier than the deadline for the quarterly statement reflecting the IRA owner's account balance as of March 31, which is five business days following March 31. The latest that this five-business-day period generally could run would be April 7. We therefore request that the due date for the RMD notice to the IRA owner be no earlier than April 7 of the calendar year if Alternative Two were to be eliminated at some point in the future.

Separate Accounts Under the Final Regulations

Under Q&A-2(a)(2) of section 1.401(a)(9)-8 of the final regulations, if a decedent's account is divided into separate accounts and the beneficiaries of each separate account differ from the beneficiaries of the other separate accounts, then each account is viewed separately for purposes of the RMD rules. This provision implies, however, that the disaggregation may not apply for distributions in the year that the separate accounts are established (if they are established after the year of death).

It is the industry's experience that a decedent's IRA account often is divided into separate accounts with different beneficiaries in a year after the year of death. This post-year-of-death division occurs for many reasons, particularly where the death occurs later in the year. The beneficiaries of these separate accounts typically are of different ages, and therefore would be subject to different RMD payout rates if considered separately.

The industry's concern with an interpretation of Q&A-2 that separate accounts would have to be aggregated for purposes of the RMD taken in the year they were established, and then disaggregated for later distributions, is that significant confusion could arise for the beneficiaries of these accounts and significant administrative burdens could be placed on plan administrators and IRA trustees. Consequently, we urge the Service to issue guidance clarifying that the disaggregation can occur immediately upon the separation of the accounts when separation occurs after the original owner's death.

If you have any questions about this submission, please feel free to contact me at (202) 371-5432.

Sincerely,

Kathy D. Ireland
Associate Counsel

cc: William F. Sweetnam, Jr.
Benefits Tax Counsel
Department of the Treasury

ENDNOTES

¹The Investment Company Institute is the national association of the American investment company industry. Its membership includes 8,990 open-end investment companies ("mutual funds"), 504 closed-end investment companies and six sponsors of unit investment trusts. Its mutual fund members have assets of about \$6.615 trillion, accounting for approximately 95 percent of total industry assets, and over 88.6 million individual shareholders.

²The Institute submitted written [comments](#) on the proposed regulations on April 17, 2001. Subsequently, Louis Denkovic, ERISA/Benefits Counsel for Citigroup Inc., [testified](#) on behalf of the Institute at the hearing on these regulations, and the Institute filed a subsequent letter supporting the concept of an "offer to calculate" option in the context of IRA trustee reporting.

³ As of year-end 2001, approximately 49 percent of the \$2.4 trillion IRA market was invested in mutual funds. "Mutual Funds and the U.S. Retirement Market," ICI Fundamentals, Vol. 11, No. 2, June 2002.

⁴ 67 Fed. Reg. 18988 (April 17, 2002).

⁵ Those trustees that opt for Alternative One may calculate the RMD assuming that the sole beneficiary of the IRA is not a spouse more than 10 years younger than the IRA owner and that no amounts received by the IRA after December 31 of the prior year are required to be taken into account.

⁶ Rule 10b-10 under the Securities Exchange Act of 1934 generally requires that written confirmation of each securities transaction be provided to an investor "at or before completion of such transaction," but allows as an alternative for certain types of accounts, including IRAs, sending an account statement within five business days after the end of each quarterly period. Mutual funds typically satisfy their obligation to provide the IRA owner with the IRA's year-end account balance, which under section 408(i)(2)(A) must be provided by January 31 of the following year, through the quarterly statement provided following the end of the fourth quarter, which is distributed within five business days of December 31. See 2002 Instructions for Forms 1099-R and 5498 at page R-12.