

Part III - Administrative, Procedural, and Miscellaneous

Electronic Delivery of Form 1099 and Form 5498 Payee Statements

Notice 2004-10

I. Purpose and Scope

This notice provides guidance to sponsors or administrators of retirement plans or qualified tuition programs (QTPs), employers of simplified employee pensions (SEPs), or trustees, custodians, or issuers of traditional Individual Retirement Arrangements (IRAs), Roth IRAs, Coverdell education savings accounts (CESAs), or Archer Medical Savings Accounts (Archer MSAs) regarding the electronic delivery of payee statements to recipients. Specifically, this notice provides that a furnisher of a Form 1099 or a Form 5498 relating to the reporting of contributions and distributions of pensions, SEPs, traditional IRAs, Roth IRAs, QTPs, CESAs, and Archer MSAs may deliver electronically the payee statements required to be furnished to recipients for 2003 and subsequent years.

II. Background

Section 220(h) of the Internal Revenue Code provides that the Secretary may require the trustee of an Archer MSA to make such reports regarding the account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The required reports must be filed at the time and in the manner and furnished to the individuals at the time and in the manner prescribed by the Secretary.

Section 408(i) provides that the trustee of an IRA and the issuer of an endowment contract described in § 408(b) or an individual retirement annuity must make such reports regarding the account, contract, or annuity to the Secretary and to the individuals for whom the account, contract, or annuity is, or is to be, maintained with respect to contributions (and the years to which they relate), distributions aggregating \$10 or more in any calendar year, and such other matters as the Secretary may require. These reports must be filed at the time and in the manner the Secretary prescribes and must be furnished to individuals not later than January 31 of the calendar year following the calendar year to which the reports relate and in the manner prescribed by the Secretary.

Section 408(l) provides that an employer who makes contributions on behalf of employees to a SEP must provide reports with respect to such contributions as the Secretary may require. The required reports must be filed at the time and in the manner and furnished to employees at the time and in the manner prescribed by the Secretary.

Section 529(d) provides that each officer or employee having control of a § 529 QTP must make such reports regarding the program to the Secretary and to designated beneficiaries with respect to contributions, distributions, or such other matters as the Secretary may require. The required reports must be filed at the time and in the manner and furnished to the individuals at the time and in the manner prescribed by the Secretary.

Section 530(h) provides that the trustee of a CESA must make reports regarding the account to the Secretary and to the beneficiary of the account with respect to contributions, distributions, or such other matters as the Secretary may require. The required reports must be filed at the time and in the manner and furnished to the individuals at the time and in the manner prescribed by the Secretary.

Section 6047(d)(1) provides for the Secretary by forms or regulations to require the plan sponsor or administrator from which designated distributions may be made and the issuer of a contract under which designated distributions may be made to make returns and reports regarding the plan or contract to the Secretary and to participants and beneficiaries of the plan or contract and such other persons as the Secretary may by regulations prescribe. Section 6047(d)(2) provides that the reports must be in the form, be made at such time, and contain such information as the Secretary may prescribe by forms or regulations. Under § 3405(e)(1), a designated distribution generally includes any distribution or payment from or under a § 401 qualified plan, a § 403(b) tax-sheltered annuity, a § 457 governmental plan, an IRA, and a commercial annuity.

Section 401 of the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21, 40 (2002), provides that any person required to furnish a statement under any section of subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code for any taxable year ending after the date of the enactment of the Act, may electronically furnish such statement (without regard to any first class mailing requirement) to any recipient who has consented to the electronic provision of the statement in a manner similar to the one permitted under the regulations issued under § 6051 of the Internal Revenue Code or in such other manner as provided by the Secretary. In accordance with this provision, part H of the 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G, under the heading "Electronic recipient statements," provides that if a furnisher is required by sections 6041 through 6050T to furnish a written statement of an information return to a recipient, then the furnisher may provide the payee statement electronically instead of on paper if the requirements specified in the instructions are satisfied.

The Secretary also has the authority to permit the electronic furnishing of Forms 1099 and 5498 payee statements relating to pensions, SEPs, traditional IRAs, Roth IRAs, QTPs, CESAs, and Archer MSAs. However, the 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G do not provide that payee

statements for reporting contributions and distributions of pensions, traditional IRAs, Roth IRAs, and Archer MSAs may be furnished electronically.

III. Permitted Electronic Delivery of Payee Statements

This notice provides that, until further guidance is published, notwithstanding part H of the 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G, a sponsor or administrator of a retirement plan or a QTP, an employer of a SEP, or a trustee, custodian, or issuer of an IRA, a Roth IRA, a CESA, or an Archer MSA may furnish the required Form 1099 or Form 5498 payee statements electronically to recipients if the furnisher satisfies the consent, format, posting, and notification requirements described in part H of the 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G and furnishes such payee statements by their respective due dates.

This notice hereby modifies part H of the 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G by permitting the electronic delivery of the Form 1099-R, Form 1099-MSA, Form 1099-Q, Form 5498, Form 5498-ESA, and Form 5498-MSA payee statements by their respective due dates.

IV. Effective Date

This notice is applicable with respect to Form 1099-R, Form 1099-MSA, Form 1099-Q, Form 5498, Form 5498-ESA, and Form 5498-MSA payee statements required to be furnished to recipients for 2003 and subsequent years.

V. Effect on Other Documents

The document entitled 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G is hereby modified.

Drafting Information

The principal author of this notice is Pamela R. Kinard of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in its development. For further information regarding this notice, contact Pamela R. Kinard at (202) 622-6060 (not a toll-free number).