

**Salary Reduction and Other Elective Simplified  
Employee Pension-Individual Retirement Accounts  
Contribution Agreement**  
(Under Section 408(k) of the Internal Revenue Code)

**Do NOT File with  
Internal Revenue  
Service**

**Caution:** This form may only be used if the three conditions found at Article III, items E, F, and G are met.

\_\_\_\_\_ establishes the following arrangement under the terms of section  
(Business name—employer)  
408(k) of The Internal Revenue Code and the instructions to this form.

**Article I—Eligibility Requirements**

Provided the requirements of Article III are met, the employer agrees to permit elective deferrals to be made in each calendar year to the Individual Retirement Accounts or Individual Retirement Annuities (IRA), established by or on behalf of all employees who are at least \_\_\_\_\_ years old (see instructions) and have performed services for the employer in at least \_\_\_\_\_ years (see instructions) of the immediately preceding 5 years. This  includes  does not include employees covered under a collective bargaining agreement and  includes  does not include employees whose total compensation during the year is less than \$300 (as adjusted annually per section 408(k)(8)).

**Article II—Elective Deferrals**

**A. Salary Reduction Option.** A participant may elect to have his or her compensation reduced by the following percentage or amount per pay period, as designated in writing to the employer (check appropriate box, or boxes, and fill in the blanks):

- 1.  An amount not in excess of \_\_\_\_\_ % (enter a specified percent of 15% or less) of a participant's compensation.
- 2.  An amount not in excess of \$ \_\_\_\_\_ (not to exceed \$7,000 per year as adjusted per Code section 415(d)).

**B. Cash Bonus Option.** A participant may base elective deferrals on bonuses that, at the participant's election, may be contributed to the SEP or received by the participant in cash during the calendar year. Check here  if such elective deferrals may be made to this SEP.

**Article III—SEP Requirements**

The employer agrees that each employee's elective deferrals to this SEP will:

**A.** Be based only on the first \$200,000 of compensation (as adjusted annually per Code section 408(k)(8)).

**B.** Be limited annually to the lesser of:

- 1. 15% of compensation (see instructions for Article III); **or**
- 2. \$7,000 (as adjusted annually per Code section 415(d)).

Amounts in excess of these limits will be treated as excess SEP deferrals.

**C.** Be further reduced, as necessary in accordance with Code section 415, if the employer also maintains a SEP to which non-elective SEP employer contributions are made for a calendar year.

**D.** Be paid to the employee's IRA trustee, custodian, or insurance company (for an annuity contract) or, if necessary, an IRA established for an employee by an employer.

**E.** Be made only if at least 50% of the employer's employees eligible to participate elect to have amounts contributed to the SEP.

**F.** Be made only if the employer had 25 or fewer employees eligible to participate at all times during the prior calendar year.

**G.** Be adjusted only if deferrals to this SEP for any calendar year do not meet the "ADP" requirements described in the instructions on page 3.

**Article IV—Excess SEP Contributions**

The employer agrees to notify each employee by March 15 of each year of any excess SEP contributions to the employee's SEP-IRA for the preceding calendar year.

**Article V—Top-heavy Requirements**

**A.** Unless paragraph B below is checked, the minimum top-heavy contribution for each year must be allocated to the SEP-IRA of each non-key employee eligible to participate in this SEP in accordance with Code section 416. This allocation may not be less than the smaller of: **(1)** 3% of the non-key employee's compensation; **or (2)** the largest percentage of elective deferrals, as a percentage of the first \$200,000 of the key employee's compensation, deferred by any key employee for that year.

**B.**  The top-heavy requirements of section 416 will be satisfied through contributions to this employer's non-elective SEP-IRA.

\_\_\_\_\_  
Signature of employer

\_\_\_\_\_  
Date

\_\_\_\_\_  
By

## Instructions for the Employer

(Section references are to the Internal Revenue Code, unless otherwise noted.)

**Paperwork Reduction Act Notice.**—The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how it is to be used, and whether you must give it to us. The information is used to determine if you are entitled to a deduction for contributions made to a SEP. Completion of this form is required only if you want to establish a Model Elective SEP.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

<b>Recordkeeping</b> . . . . .	40 min.
<b>Learning about the law or the form</b> . . . . .	54 min.
<b>Preparing the form, copying, assembling, and sending the form to IRS</b> . . . . .	20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-1012), Washington, DC 20503.

**Purpose of Form.**—Form 5305A-SEP (model elective SEP) is used by an employer to permit employees to make elective deferrals to a Simplified Employee Pension (SEP) described in section 408(k). This form is NOT to be filed with IRS.

**What is a SEP?**—A SEP is a plan that provides an employer with a simplified way to enhance the employee's retirement income. Under an elective SEP, employees may choose whether or not to make elective deferrals to the SEP. The employer puts the amounts deferred by employees directly into an IRA set up by or on behalf of the employee with a bank, insurance company, or other qualified financial institution. When using this form to establish a SEP, the IRA established by or on behalf of an employee must be a model IRA or a master or prototype IRA for which IRS has issued a favorable opinion letter. Making the agreement on Form 5305A-SEP does not establish an employer IRA as described under section 408(c).

This form may NOT be used by an employer who:

1. Currently maintains any other qualified retirement plan. This does not prevent an employer from also maintaining a Model SEP (Form 5305-SEP) or other SEP to which either elective or non-elective contributions are made.
2. Has maintained in the past a defined benefit plan, even if now terminated.
3. Has any eligible employees by or for whom IRAs have not been established.
4. Has only highly compensated employees.
5. Is a member of one of the groups described in the Specific Instructions for Article III, G, 2 below, UNLESS all eligible employees of all the members of such

groups, trades, or businesses are eligible to make elective deferrals to this SEP, and PROVIDED that in the prior calendar year there were never more than 25 employees eligible to participate in this SEP, in total, of all the members of such groups, trades, or businesses.

**6.** Is a state or local government or a tax-exempt organization.

This form should be used only if the employer intends to permit elective deferrals to a SEP. If the employer wishes to establish a SEP to which non-elective employer contributions may be made, Form 5305-SEP or a non-model SEP should be used instead of, or in addition to, this form.

**Making the Agreement.**—This agreement is considered made when:

1. IRAs have been established by or for all of your eligible employees;
2. You have completed all blanks on the agreement form without modification; and
3. You have given all your eligible employees copies of the agreement form, instructions, and questions and answers.

Keep the agreement form with your records; do NOT file it with IRS.

Currently, employers who have established a SEP using this agreement and have provided each participant with a copy of this form, including the questions and answers, are not required to file the annual information returns, Form 5500, 5500-C/R, or 5500EZ for the SEP.

**Deducting Contributions.**—You may deduct contributions made by the due date of the employer's tax return, and extensions thereof, to a SEP subject to the limitations of section 404(h). This SEP is maintained on a calendar year basis, and contributions to the SEP are deductible for your taxable year with or within which the calendar year ends.

However, please see the Actual Deferral Percentage worksheet on page 6.

## Specific Instructions

### Article I.—Eligibility Requirements

Any employee who is at least 21 years old and has performed "service" for you in at least 3 years of the immediately preceding 5 years must be permitted to participate in the SEP. However, you may establish less restrictive eligibility requirements if you choose. Service is any work performed for you for any period of time, however short. Further, if you are a member of one of the groups described in Article III, G, 2 below, service includes any work performed for any period of time for any other member of such group, trades, or businesses. Generally, to make the agreement, all eligible employees, including leased employees within the meaning of section 414(n), of the affiliated employer must be permitted to make elective deferrals to the SEP. However, employees covered under a collective bargaining agreement and certain nonresident aliens may be excluded if section 410(b)(3)(A) or 410(b)(3)(C) applies to them. Employees whose total compensation for the year is less than \$300 also may be excluded.

### Article II.—Elective Deferrals

You may permit your employees to make elective deferrals through salary reduction or on the basis of bonuses that, at the participant's option, may be contributed to the SEP or received by the participant in cash during the calendar year.

You are responsible for telling your employees how they may make, change, or terminate elective deferrals based on either salary reduction or cash bonuses. You must also provide a form on which they may make their deferral elections. (This requirement may be satisfied by use of the model form provided on page 5 or by use of a form setting forth, in a manner calculated to be understood by the average plan participant, the information contained in the "Model SEP Deferral Form.") No deferral election may be made with respect to compensation already received.

### Article III.—SEP Requirements

**A.** Elective deferrals may not be based on more than \$200,000 of compensation, as adjusted per section 408(k)(8) for cost of living changes. Compensation is the employee's compensation from the employer (figured without including the SEP-IRA contributions) and includes:

- Amounts received for personal services actually performed (see section 1.219-1(c) of the Income Tax Regulations), and
- Earned income defined under section 401(c)(2).

**Note:** The deferral limit of 15% of compensation (less employer SEP-IRA contributions) is computed using the following formula: (compensation including employer SEP-IRA contribution ÷ 115%) × .15 = 15% of compensation limitation.

**B.** The maximum limit on the amount of compensation an employee may elect to defer under a SEP for a calendar year is the lesser of:

- 15% of the employee's compensation; or
- \$7,000, adjusted as explained below.

Amounts deferred for a year in excess of \$7,000 as adjusted are considered excess deferrals and are subject to the consequences described below.

The \$7,000 limit on the amount an employee may elect to defer in each year applies to the total elective deferrals the employee makes for the year under the following arrangements:

1. Elective SEPs under section 408(k)(6);
2. Cash or deferred arrangements under section 401(k); and
3. Salary reduction arrangements under section 403(b).

Thus, the employee may have excess deferrals even if the amount deferred under this SEP does not exceed \$7,000.

The \$7,000 limit will be indexed according to the cost of living. In addition, the limit may be increased to \$9,500 if the employee makes elective deferrals to a salary reduction arrangement under section 403(b).

If an employee who elects to defer compensation under this SEP has made excess deferrals for a year, he or she must withdraw those excess deferrals by April 15 following the year of the deferral. Excess

deferrals not withdrawn by April 15 following the year of the deferral may also be subject, when withdrawn, to the 10% tax on early distributions under section 72(t).

**C.** If you also maintain a Model SEP or any other SEP to which you make non-elective contributions, contributions to the two SEPs together may not exceed the lesser of \$30,000 or 15% of compensation for any employee. If these limits are exceeded on behalf of any employee for a particular calendar year, that employee's elective deferrals for that year must be reduced to the extent of the excess.

**E. and F.** Each of these calculations is made after first excluding employees who do not meet the eligibility requirements of Article I, including employees covered under a collective bargaining agreement and nonresident aliens.

**F.** New employers who had no employees during the prior calendar year will meet this requirement if they have 25 or fewer employees throughout the first 30 days that the employer is in existence.

**G. Actual Deferral Percentage (ADP) Requirements.** An excess SEP contribution for the calendar year is the amount of each highly compensated employee's elective deferrals that exceeds the ADP for a calendar year. To meet the ADP requirements for a calendar year, the following test must be satisfied. The ADP of any "highly compensated employee" eligible to participate in this SEP may not be more than the product obtained by multiplying the average of the ADPs for that year of all non-highly compensated employees eligible to participate by 1.25. Only elective deferrals count for this test; non-elective SEP contributions may not be included.

For purposes of making this computation, the calculation of a highly compensated employee's ADP is made on the basis of the entire "affiliated employer." The determination of the number and identity of highly compensated employees is also made on the basis of the affiliated employer.

In addition, for purposes of determining the ADP of a highly compensated individual, the elective deferrals and compensation of the employee will also include the elective deferrals and compensation of any "family member." This special rule applies, however, only if the highly compensated employee is a 5% owner and is one of a group of the ten most highly compensated employees. The elective deferrals and compensation of family members used in this special rule do not count in computing the ADP of individuals who do not fall into this group.

The following definitions apply for purposes of this ADP computation:

**1. ADP**—the ratio of an employee's elective deferrals for a calendar year to the employee's compensation (as defined in III A. above) for that year. The ADP of an employee who is eligible to make an elective deferral, but who does not make a deferral during the year, is zero.

**2. Affiliated employer**—the employer and any member of an affiliated service group (as described in section 414(m)), a controlled group of corporations (as described in section 414(b)) or trades or businesses as described in section 414(c),

or any other entity required to be aggregated with the employer under section 414(o).

**3. Family member**—an individual who is related to a highly compensated individual as a spouse, or as a lineal ascendant, such as a parent or grandparent, or a descendent such as a child or grandchild, or spouse of either of those.

**4. Highly compensated individual**—an individual who (as described in section 414(q)) during the current or preceding calendar year:

- (i) was a 5% or more owner;
- (ii) received compensation in excess of \$75,000;
- (iii) received compensation in excess of \$50,000 and was in the top-paid group (the top 20% of employees, by compensation); or
- (iv) was an officer and received compensation in excess of 50% of the section 415 dollar limit for defined contribution plans. (No more than 3 employees need be taken into account under this rule. At least one officer, the highest-paid officer if no one else meets this test, however, must be taken into account.)

A worksheet to calculate the ADP test and excess SEP contributions is provided on page 6.

## Article IV.—Excess SEP Contributions

**A.** As stated above, a worksheet to calculate excess SEP contributions is provided on page 6 of this booklet. This worksheet should be used to determine the amount of excess SEP contributions to be reported to employees with respect to a calendar year. The employer is responsible for notifying each employee by March 15 of the amount, if any, of any excess SEP contributions to that employee's SEP-IRA for the preceding calendar year. If you do not notify any of your employees by March 15, you must pay a tax equal to 10% of the excess SEP contributions for the preceding calendar year. If you fail to notify your employees by December 31 of the calendar year following the year of the excess SEP contributions, your SEP no longer will be considered to meet the requirements of section 408(k)(6). This means that the earnings on the SEP are subject to tax immediately, that no more deferrals can be made under the SEP, and that deferrals of all employees in the uncorrected excess are includible in their income in that year.

Your notification to each affected employee of the excess SEP contributions must specifically state in a manner calculated to be understood by the average plan participant: (i) the amount of the excess contributions attributable to that employee's elective deferrals; (ii) the calendar year for which the excess contributions were made; (iii) that the excess contributions are includible in the affected employee's gross income for the specified calendar year; and (iv) that failure to withdraw the excess contributions and income attributable thereto by the due date (plus extensions) for filing the affected employee's tax return for the preceding

calendar year may result in significant penalties, with a reference to Question 6 of Form 5305A-SEP for further information concerning possible penalties. If you wish, you may use the model form we have included for this purpose on page 5 following the "Model Elective SEP Deferral Form." If you already have issued W-2s to your employees by the time of the notification of the excess SEP contributions, you must also issue to the affected employees any required forms that reflect the fact that excess SEP contributions must be included in an employee's taxable income.

**Example:** Employee "A," a highly-compensated employee of employer "X," elects to defer \$4,000 for calendar year 1987 to his SEP-IRA. A's compensation for 1987, excluding his SEP contribution, was \$60,000. On January 15, 1988, X issues to A a W-2 stating that A's taxable income for 1987 was \$60,000.

In February of 1988, X calculates the ADP test for 1987 for the SEP and discovers that A's maximum permissible SEP-IRA contribution for 1987 was \$3,500. A is the only employee of X with excess SEP contributions. Therefore, on February 20, 1988, X notifies A that A had an excess SEP contribution of \$500 for 1987. In addition, X issues the required form to A on that date that specifies that A's corrected taxable income for 1987 was \$60,500. X is not liable for the 10% tax on excess SEP-IRA contributions because he notified A of the excess SEP-IRA contributions by March 15, 1988.

To avoid excess SEP contributions with respect to which you must notify employees you may want to institute a mechanism that would monitor elective deferrals on a continuing basis throughout the calendar year to insure that the deferrals comply with the limits as they are paid into each employee's SEP-IRA.

## Article V.—Top-heavy Requirements

**A.** For purposes of determining whether a plan is top-heavy under section 416, elective deferrals are considered employer contributions. Elective deferrals may not be used, however, to satisfy the minimum contribution requirement under section 416. Thus, in any year in which a key employee makes an elective deferral, this Model SEP is deemed top-heavy for purposes of section 416 and the employer is required to make the minimum contribution to the SEP-IRA of each non-key employee eligible to participate in the SEP.

A key employee under section 416(i)(1) is any employee or former employee (and the beneficiaries of these employees) who, at any time during the "determination period," was:

1. an officer of the employer (if the employee's compensation exceeds 50% of the limit under section 415(c)(1)(A));
2. an owner of one of the ten largest interests in the employer (if the employee's compensation exceeds 100% of the limit under section 415(c)(1)(A));
3. a 5% or more owner of the employer; or

4. a 1% owner of the employer (if the employee has compensation in excess of \$150,000).

The "determination period" is the current calendar year and the four preceding years.

**B.** The employer may satisfy the minimum contribution requirement of section 416 by making the required contributions through a non-elective SEP.

## Information for the Employee

The following information explains what a Simplified Employee Pension plan is, how contributions are made, and how to treat these contributions for tax purposes.

Please read the questions and answers carefully. For more specific information, also see the agreement form and instructions to your employer on this form.

## Questions and Answers

**1. Q.** What is a Simplified Employee Pension, or SEP?

**A.** A SEP is a retirement income arrangement. In this particular "elective" SEP, you may choose to defer compensation to your own Individual Retirement Account/Annuity (IRA). These elective deferrals may be based either on a salary reduction arrangement or on bonuses that, at your election, may be contributed to your IRA or received by you in cash. This type of elective SEP is available only to an employer with 25 or fewer eligible employees.

Your employer will provide you with a copy of the agreement containing eligibility requirements and a description of the basis upon which contributions may be made to your IRA.

All amounts contributed to your IRA belong to you, even after you separate from service with that employer.

**2. Q.** Must I make elective deferrals to an IRA?

**A.** No. However, if more than half of the eligible employees choose not to make elective deferrals in a particular year, then no employee may participate in an elective SEP of that employer for the year.

**3. Q.** How much may I elect to defer to my SEP-IRA in a particular year?

**A.** The amount that may be deferred to this SEP for any year is limited to the lesser of:

- (1) 15% of compensation; **or**
- (2) \$7,000 (as adjusted for increases in the cost of living).

These limits may be reduced if your employer also maintains a SEP to which non-elective contributions are made. In that case, total contributions on your behalf to both SEPs may not exceed the lesser of \$30,000 or 15% of your compensation. If these limits are exceeded, the amount you may elect to contribute to this SEP for the year will be correspondingly reduced.

The \$7,000 is an overall cap on the maximum amount you may defer in each calendar year to all elective SEPs and cash-or-deferred arrangements under section 401(k), regardless of how many employers you may have worked for during the year.

The \$7,000 will be indexed according to the cost of living and is increased to \$9,500 (more in some cases) if you make salary reduction contributions under a section 403(b) arrangement of another employer.

If you are a highly compensated employee there may be a further limit on the amount you may contribute to a SEP-IRA for a particular year. This limit is calculated by your employer and is based on a special kind of non-discrimination test known as an ADP test. This test is based on a mathematical formula that limits the percentage of pay that highly compensated employees may elect to defer to a SEP-IRA. As discussed below, your employer will notify you if you have exceeded the ADP limits.

**4. Q.** How do I treat elective deferrals for tax purposes?

**A.** The amount you elect to defer to your SEP-IRA is excludible from your gross income, subject to the limitations discussed above, and is not includible as taxable wages on your Form W-2. These amounts are treated as amounts subject to FICA taxes.

**5. Q.** How will I know if too much is contributed to my SEP-IRA in one year?

**A.** There are two different ways in which you may contribute too much to your SEP-IRA. One way is to make "excess elective deferrals," i.e., exceed the \$7,000 limitation described above. The second way is to make "excess SEP contributions," i.e., violate the "ADP" test, as discussed above. You are responsible for calculating whether or not you have exceeded the \$7,000 limitation. Your employer is responsible for determining whether you have made any excess SEP contributions.

Your employer is required to notify you by March 15 if you have made any excess SEP contributions for the preceding calendar year. Your employer will notify you of an excess SEP contribution by providing you with any required form for the preceding calendar year.

**6. Q.** What must I do about excess deferrals to avoid adverse tax consequences?

**A.** Excess deferrals are includible in your gross income in the year of the deferral. You should withdraw excess deferrals under this SEP and any income allocable to the excess deferrals from your SEP-IRA by April 15. These amounts cannot be transferred or rolled over to another SEP-IRA.

If you fail to withdraw your excess deferrals and any income allocable thereto by April 15 of the following year, your excess deferrals will be subject to a 6% excise tax for each year they remain in the SEP-IRA.

If you have both excess deferrals and excess SEP contributions (as described in 6a below), the amount of excess deferrals you withdraw by April 15 will reduce your excess SEP contributions.

**6a. Q:** What must I do about excess SEP contributions to avoid adverse tax consequences?

**A.** Excess SEP contributions are includible in your gross income in the year of the deferral. You should withdraw excess SEP contributions for a calendar year and

any income allocable to the excess SEP contributions by the due date (including extensions) for filing your income tax return for the year. These amounts cannot be transferred or rolled over to another SEP-IRA.

If you fail to withdraw your excess SEP contributions and income allocable thereto by the due date (including extensions) for filing your income tax return, your excess SEP contributions will be subject to a 6% excise tax for each year they remain in the SEP-IRA.

**7. Q.** Can I reduce excess elective deferrals or excess SEP contributions by rolling over or transferring amounts from my SEP-IRA to another IRA?

**A.** No. Excess elective deferrals or excess SEP contributions may be reduced only by a distribution to you. Excess amounts rolled over or transferred to another IRA will be includible in income and subject to the penalties discussed above.

**8. Q.** How do I know how much income is allocable to my excess elective deferrals or any excess SEP contributions?

**A.** The rules for determining and allocating income to excess elective deferrals or SEP contributions are the same as those governing regular IRA contributions. The trustee or custodian of your SEP-IRA may be able to inform you of the amount of income allocable to your excess amounts.

**9. Q.** May I also contribute to my IRA if I am a participant in a SEP?

**A.** Yes. You may still contribute the lesser of \$2,000 or 100% of compensation to an IRA. However, the amount that is deductible is subject to various limitations. See Publication 590 for more specific information.

**10. Q.** Are there any restrictions on the IRA I select to deposit my SEP contributions in?

**A.** Under the Model Elective SEP that is approved by IRS, contributions must be made either to a Model IRA that is executed on an IRS form or a master or prototype IRA for which IRS has issued a favorable opinion letter.

**11. Q.** Can I move funds from my SEP-IRA to another tax-sheltered IRA?

**A.** Yes but see below. It is permissible for you to withdraw, or receive, funds from your SEP-IRA, and no more than 60 days later, place such funds in another IRA or SEP-IRA. This is called a "rollover" and may not be done without penalty more frequently than at one-year intervals. However, there are no restrictions on the number of times you may make "transfers" if you arrange to have such funds transferred between the trustees, so that you never have possession.

**12. Q.** What happens if I withdraw my elective deferrals to my SEP-IRA?

**A.** If you don't want to leave the money in the IRA, you may withdraw it at any time, but any amount withdrawn is includible in your income. Also, if withdrawals occur before you are 59½, and not on account of death or disability, you may be subject to a 10% penalty tax. (As discussed above, different rules apply to the removal of excess amounts contributed to your SEP-IRA.)

**13. Q.** What happens if I transfer or distribute contributions from my SEP before the ADP test described in Question 3 has been satisfied.

A. If you make a transfer or a distribution from your SEP before the nondiscrimination test has been satisfied, the distribution will be subject to regular income tax as provided in section 72 and the additional 10% tax on early distributions in section 72(t).

**14. Q.** May I participate in a SEP even though I'm covered by another plan?

A. An employer may adopt this IRS Model Elective SEP (Form 5305A-SEP) and at the same time maintain an IRS Model SEP (Form 5305-SEP) or other non-elective SEP. However, an employer may not adopt this IRS Model Elective SEP if the employer maintains any qualified retirement plan or has ever maintained a qualified defined benefit plan. If you work for several employers, however, you may be covered by a SEP of one employer and a different SEP or pension or profit-sharing plan of another employer.

You should remember, however, as discussed in Question 3 above, that your elective deferrals to all plans or arrangements, even if maintained by unrelated employers, are subject to a \$7,000 limit (more if one is a section 403(b) annuity). If you participate in two arrangements that permit elective deferrals, you should take care that this limit is not exceeded for any calendar year.

**15. Q.** Do I need to file any additional forms with IRS because I participate in a SEP?

A. No.

**16. Q.** Is my employer required to provide me with information about SEP-IRAs and the SEP agreement?

A. Yes. Your employer must provide you with a copy of the executed SEP agreement (Form 5305A-SEP), these Questions and Answers, the form used by the employee to defer amounts to the SEP, the notice of excess SEP contributions, if applicable, and a statement each year showing any contribution to your SEP-IRA.

**17. Q.** Is the financial institution where my IRA is established also required to provide me with information?

A. Yes. It must provide you with a disclosure statement that contains the following items of information in plain, nontechnical language:

- (1) the statutory requirements that relate to your IRA;
- (2) the tax consequences that follow the exercise of various options and what those options are;
- (3) participation eligibility rules, and rules on the deductibility and nondeductibility of retirement savings;
- (4) the circumstances and procedures under which you may revoke your IRA, including the name, address, and telephone number of the person designated to receive

notice of revocation (this explanation must be prominently displayed at the beginning of the disclosure statement);

(5) explanations of when penalties may be assessed against you because of specified prohibited or penalized activities concerning your IRA; and

(6) financial disclosure information which:

(a) either projects value growth rates of your IRA under various contribution and retirement schedules, or describes the method of computing and allocating annual earnings and charges which may be assessed;

(b) describes whether, and for what period, the growth projections for the plan are guaranteed, or a statement of earnings rate and terms on which these projections are based; and

(c) states the sales commission to be charged in each year expressed as a percentage of \$1,000.

See **Publication 590**, Individual Retirement Arrangements (IRAs), available at most IRS offices, for a more complete explanation of the disclosure requirements.

In addition to this disclosure statement, the financial institution is required to provide you with a financial statement each year. It may be necessary to retain and refer to statements for more than one year to evaluate the investment performance of the IRA and in order that you will know how to report IRA distributions for tax purposes.

**Model Elective SEP Deferral Form**

**I. Salary reduction deferral**

Subject to the requirements of the Model Elective SEP of \_\_\_\_\_, I authorize the following amount or percentage of my compensation to be withheld from each of my paychecks and contributed to my SEP-IRA:

(a) \_\_\_\_\_ percent of my salary (not in excess of 15%); or (b) \_\_\_\_\_ dollar amount.

This salary reduction authorization shall remain in effect until I give a written modification or termination of its terms to my employer.

**II. Cash bonus deferral**

Subject to the requirements of the Model Elective SEP of \_\_\_\_\_, I authorize the following amount to be contributed to my SEP-IRA rather than being paid to me in cash: \_\_\_\_\_ dollar amount.

**III. Amount of deferral**

I understand that the total amount I defer in any calendar year to this SEP may not exceed the lesser of: (a) 15% of my compensation; or (b) \$7,000 (as adjusted per Code section 415(d)).

**IV. Commencement of deferral**

The deferral election specified in either I. or II. above shall not become effective before: \_\_\_\_\_ (Month, Day, Year)  
(Specify a date no earlier than the next payday beginning after this authorization.)

Signature ►

Date ►

**Notification of Excess SEP Contributions**

To: \_\_\_\_\_  
(Name of employee)

Our calculations indicate that the elective deferrals you made to your SEP-IRA for calendar year \_\_\_\_\_ exceed the maximum permissible limits under section 408(k)(6) of the Internal Revenue Code. You made excess SEP contributions of \$\_\_\_\_\_ for that year.

These excess SEP contributions are includible in your gross income for the calendar year specified above.

These excess SEP contributions must be distributed from your IRA by the due date (plus extensions) for filing your tax return for the preceding calendar year (normally April 15th) in order to avoid significant penalties. Income allocable to the excess amounts must be withdrawn at the same time and is includible in income along with the excess contributions. Excess contributions left in your SEP-IRA account after that time are subject to a 6% excise tax.

Signature ►

Date ►

**Elective SEP Actual Deferred Percentage Worksheet**

<b>a</b> Employee Name	<b>b</b> Status H = Highly compensated F = Family O = Other	<b>c</b> Compensation (Including compensation from related employers and compensation of family.)	<b>d</b> Deferrals (Add all SEP deferrals; add deferrals of family to HCE*)	<b>e</b> Ratio (if family member enter N.A. - otherwise d ÷ c)	<b>f</b> Permitted ratio (for HCE* only from below)	<b>g</b> Permitted amount (for HCE* only) c X f	<b>h</b> Excess (for HCE* only) d minus g
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
13.							
14.							
15.							
16.							
17.							
18.							
19.							
20.							
21.							
22.							
23.							
24.							
25.							

Permitted Ratio Computation for column f:

A. Enter the total of all the ratios of the employees marked as "-O-" in column b \_\_\_\_\_

B. Divide line A by the number of employees marked as "-O-" in column b \_\_\_\_\_

C. Permitted ratio—Multiply line B by 1.25 and enter the permitted ratio here \_\_\_\_\_

\* Highly compensated employee