

1991



Department of the Treasury
Internal Revenue Service

Instructions for Form 5329

Return for Additional Taxes Attributable to Qualified Retirement Plans (Including IRAs), Annuities, and Modified Endowment Contracts

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

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

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

- Recordkeeping** 2 hrs., 24 min.
- Learning about the law or the form** 44 min.
- Preparing the form** 1 hr., 32 min.
- Copying, assembling, and sending the form to the IRS** 35 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 **IRS** and the **Office of Management and Budget** at the addresses listed in the instructions for Form 1040. **DO NOT** send this form to either of these offices. Instead, see **When and Where To File** on this page.

Items You Should Note

- If you received an early distribution from your plan but meet an exception to the tax on early distributions, you may not need to file this form. See paragraph 3 under **Who Must File**.
- You should keep copies of Worksheets used to figure the unrecovered grandfather amounts under the discretionary and attained age methods in your permanent records. Also, attach a copy of the Worksheet to Form 5329. See the instructions for Part IV.
- If you previously made nondeductible IRA contributions, you must use **Form 8606**, Nondeductible IRA Contributions, IRA Basis, and Nontaxable IRA Distributions, to figure the nontaxable part of your IRA withdrawals.

General Instructions

Purpose of Form

Use this form to report any excise tax or additional income tax you may owe in

connection with your qualified retirement plan (including your individual retirement arrangement (IRA)), annuity, or modified endowment contract.

Note: As used in these instructions, the term "qualified retirement plan" includes an individual retirement arrangement (IRA).

Who Must File

You must file Form 5329 if you:

1. Owe a tax because of excess contributions to your IRA (Part I);
2. Owe a tax on early distributions from your IRA, qualified retirement plan, annuity, or modified endowment contract (Part II); (distribution code 1 should be shown on the **Form 1099-R**, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., you received — but see "Note" following item 5 below);
3. Meet an exception to the tax on early distributions (Part II), and the exception (distribution code 2, 3, or 4) is **NOT** shown on the Form 1099-R you received for the distribution. You must also file Form 5329 if the Form 1099-R shows distribution code 2, 3, or 4 but the code is incorrect. You do not need to file it if the Form 1099-R correctly shows distribution code 2, 3, or 4.
4. Owe a tax because you did not receive a minimum required distribution from your qualified retirement plan (Part III); or
5. Received excess distributions from a qualified retirement plan, whether or not you owe tax (Part IV).

Note: You do not have to file Form 5329 if you rolled over all distributions you received during the year.

These items are explained in detail later in these instructions.

Joint Returns.—Each spouse must complete a **separate** Form 5329 for taxes attributable to his or her own qualified retirement plan, annuity, or modified endowment contract. If both spouses owe penalty taxes and are filing a joint return, enter the combined total tax from Forms 5329 on Form 1040, line 51.

IRA Contributions.—Do not file Form 5329 to report your deduction for

contributions to your IRA. Report this deduction on your **Form 1040** or **Form 1040A**, U.S. Individual Income Tax Return. If you make a nondeductible contribution to your IRA, you must file Form 8606.

Additional Information.—For more details, get **Pub. 575**, Pension and Annuity Income, and **Pub. 590**, Individual Retirement Arrangements (IRAs).

Also, if you redeem your individual retirement bonds, you should see Pub. 590.

When and Where To File

Attach your 1991 Form 5329 to your 1991 Form 1040. File by the due date for your Form 1040 (including extensions). If you are paying tax for a prior year, use a separate Form 5329 for the specific year for which you are paying tax. For example, if you are paying tax for 1988, you must use the 1988 version of Form 5329 to report the 1988 tax.

If you do not have to file Form 1040 because you do not have enough income to require filing an income tax return, file only a completed Form 5329 with the Internal Revenue Service at the time and place that you would file Form 1040. Include a check or money order payable to the Internal Revenue Service for the total of any tax due shown on lines 7, 11, 15, 19c, and 23c.

Signature and Date

You must sign and date this form if you file it separately from Form 1040.

Preparer's Number

The paid preparer's number is needed only if you owe a tax on early distributions (from Part II). For details about a paid preparer's signing responsibilities, see instructions for Form 1040.

Definitions

Compensation

Compensation includes wages, salaries, professional fees, and other pay you receive for services you perform. It also includes sales commissions, commissions on insurance premiums, pay based on percent of profit, tips, and bonuses. It includes net earnings from self-employment, but only for a trade or business in which your personal services are a material income-producing factor. In addition, for IRAs all taxable alimony received by a former or current spouse under a decree of divorce or separate maintenance is treated as compensation.

Compensation does not include any amounts received as a pension or annuity and does not include any amount received as deferred compensation.

Rollover

A rollover is a withdrawal of assets from one qualified retirement plan and its reinvestment in another plan. Generally, you must complete the rollover within 60 days following the distribution to qualify it for tax-free treatment. See Pub. 590 for more information and additional requirements regarding rollover contributions to an IRA, distributions under a "qualified domestic relations order," and rollovers of partial distributions from qualified plans.

Note: If you instruct the trustee of your IRA to transfer funds directly to another IRA, the transfer is **not** considered a rollover. Do not include the amount transferred in income or deduct the amount transferred as a contribution to your IRA.

Early Distribution

Generally, any distribution from your qualified retirement plan, annuity, or modified endowment contract that you receive before you reach age 59½ is an early distribution.

See the instructions for Part II for the tax on early distributions and exceptions to it.

Prohibited Transactions

Generally, transactions such as borrowing from your IRA or annuity or using your IRA as a basis for obtaining a benefit are prohibited transactions. They cause the IRA or annuity to no longer be considered an IRA or annuity as of the first day of your tax year in which the transaction occurs. Further, the entire value of your account or annuity is considered distributed to you as of the first day of your tax year. See the instructions for line 8d.

Pledging of Account

1. If, during the tax year, you use any part of your individual retirement account as security for a loan, that part is treated as being distributed to you.

2. If, during the tax year, you use all or any part of your individual retirement annuity contract as security for a loan, the total value of that contract is treated as being distributed to you as of the first day of your tax year.

Also, if you are under age 59½ when the account or annuity is treated as being distributed to you, these distributions are subject to the tax on early distributions. See the instructions for line 8e.

Note: Report any distributions received or considered received from your IRA as fully taxable on Form 1040, line 16b, except:

a. Rollover contributions to another plan or IRA.

b. Current year contributions that you withdraw from your IRA before the due date of your income tax return for the year the contributions were made and for which you took no deduction.

c. Any excess contributions from earlier years that you withdraw, if the total contributions for the year in which the excess contributions were made were not more than \$2,250 (or if the total contributions for the year included employer contributions to a SEP, \$2,250 increased by the lesser of the amount of the employer contributions to the SEP or \$30,000) and you took no deduction for the excess contributions.

d. Amounts transferred (by transfer of ownership of an IRA) to a spouse or former spouse under a divorce or separate maintenance decree or written instrument incidental to such a decree.

e. Any individual retirement annuity contracts distributed to you. However, report on your income tax return any payments you received from these annuities as fully taxable annuity payments.

f. The part of IRA distributions that is a recovery of basis, if you made nondeductible IRA contributions in earlier years. Use Form 8606 to figure this amount.

However, if you withdraw some or all of your 1991 IRA contributions by the due date (including extensions) of your 1991 income tax return, the contributions will not be taxable as a distribution if:

1. You do not claim a deduction for the amount of the contributions withdrawn, and
2. You also withdraw from your IRA any income earned on the withdrawn contributions.

Do not include such withdrawn contributions on line 1 of Form 5329.

However, you must include the income earned on the contributions withdrawn before the due date of your income tax return on Form 1040 for the year in which you made the contribution. Also, report the income (but not the withdrawn contributions) as an early distribution on line 8a, Part II of Form 5329, for the year you made the contribution if you had not reached age 59½ at the time you received the distribution of income.

Line 1.—Enter the excess contributions you made in 1991. To figure this amount, subtract your contributions limit from your actual contributions. To figure your contributions limit, use IRA Worksheet 1 in the Form 1040 instructions. For this purpose, use the amount from line 3, column (a) or (b), or line 8 (as applicable) of Worksheet 1 regardless of your adjusted gross income (AGI) and even though you use Worksheet 2 to figure your IRA deduction limit.

Do not include any rollover contributions in figuring your excess contributions.

Line 2.—Enter the total amount of 1990 excess contributions not withdrawn from your IRA by the due date of your 1990 income tax return, plus the 1989 and earlier excess contributions not withdrawn or otherwise eliminated before January 1, 1991.

This entry should agree with the amount on line 6 of your 1990 Form 5329.

Line 3.—If you contributed less to your IRA for 1991 than your contributions limit, and your excess contributions from earlier years have not been eliminated, complete the worksheet below to see if you have a contribution

Specific Instructions

Amended Return

If you are filing an amended 1991 Form 5329, check the box at the top of page 1 of the form. Do not use this version of Form 5329 to amend your return for any year other than 1991.

Part I—Excess Contributions Tax for Individual Retirement Arrangements (Section 4973)

If you contributed, either this year or in earlier years, more to your IRA than is allowable, you may have to pay an excess contributions tax. For this purpose, the amount allowable is the full contribution permitted under section 219 without regard to the reduction, under section 219(g), of your IRA deduction based on your adjusted gross income.

Worksheet for line 3

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|---|--|--|
| 1 | Enter amount from line 2, column (a) or (b), IRA Worksheet 1, or line 7, column (a) or (b), IRA Worksheet 2, in the Form 1040 Instructions, but not more than \$2,000 (\$2,250 if you contributed to your nonworking spouse's account) . . . | |
| 2 | Enter amount actually contributed either to your account or to your and your nonworking spouse's accounts. (Do not include amounts treated as current year contributions under section 219(f)(6).) . . . | |
| 3 | Contribution credit—subtract line 2 from line 1 (but do not enter more than \$2,000). Enter this amount on line 3 of Form 5329. You should also add this to the amount calculated on line 3 or 8 (whichever is applicable) IRA Worksheet 1; or line 9 or 19 (whichever is applicable) IRA Worksheet 2, contained in Form 1040 Instructions for lines 24a and 24b, the smaller of either: (i) this amount; or (ii) your earlier years' excess contributions not previously eliminated. (See section 219(f)(6).) . . . | |

credit. **DO NOT** enter an amount on line 3 if you have an amount on line 1.

Line 4a.—If you withdrew any money from your IRA in 1991 that must be included in your income for 1991, enter that amount on line 4a. Do not include any contributions withdrawn that will be reported on line 4b.

Line 4b.—Enter any excess contributions to your IRA for 1976 through 1989 that you withdrew in 1991, and any 1990 excess contributions that you withdrew after the due date (including any extensions) for your 1990 income tax return, if:

1. You did not claim a deduction for the excess, and
2. The total contributions to your IRA for the tax year for which the excess contributions were made were not more than \$2,250 (or if the total contributions for the year included employer contributions to a SEP, \$2,250 increased by the smaller of the amount of the employer contributions to the SEP or \$30,000).

Part II—Tax on Early Distributions (Section 72)

In general, if a distribution is made to you from a qualified retirement plan, an annuity, or a modified endowment contract before you reach age 59½ (including an involuntary cashout under section 411(a)(11) or 417(e)), the part of the distribution that is includible in gross income is subject to an additional 10% tax.

A **qualified retirement plan** includes:

1. A qualified pension, profit-sharing, and stock bonus plan,
2. A qualified annuity plan,
3. A tax-sheltered annuity contract,
4. An individual retirement account, and
5. An individual retirement annuity.

The tax on early distributions from qualified retirement plans does not apply to:

- A distribution of excess contributions from a qualified cash or deferred arrangement.
- A distribution of excess aggregate contributions to meet nondiscrimination requirements for employer matching and employee contributions.
- A distribution of excess deferrals.
- Amounts distributed from unfunded deferred compensation plans of tax-exempt or State and local government employers.

See the instructions for line 9 for other distributions that are not subject to the tax.

Note: You must include the taxable amount of all distributions (including interest earned on investments) from line 8g on either line 16b or 17b, Form 1040,

or the appropriate line of **Form 4972, Tax on Lump-Sum Distributions, whichever applies.**

Line 8a.—Enter the taxable amount of distributions made to you from a qualified pension plan, including your IRA (and income earned on excess contributions to your IRA), before you reached age 59½. The taxable amount of a distribution is the amount you include in gross income.

Do not include the following distributions on line 8a:

1. 1991 IRA contributions withdrawn during the year or 1990 excess contributions withdrawn in 1991 before the filing date (including extensions) of your 1990 income tax return;
2. Distributions rolled over to another retirement arrangement or plan;
3. Amounts from an arrangement for which you make an entry on line 8d, 8e, or 8f;
4. Amounts considered distributed from an arrangement because it was pledged as security for a loan (report these amounts on line 8e);
5. 1976 and 1977 excess contributions to IRAs withdrawn in 1991 if no deduction was allowed for the excess contributions;
6. 1978 through 1989 excess contributions withdrawn in 1991, and 1990 excess contributions withdrawn after the due date (including extensions) of your 1990 income tax return, if no deduction was allowed for the excess contributions, and the total IRA contributions for the tax year for which the excess contributions were made were not more than \$2,250 (or if the total contributions for the year included employer contributions to a SEP, \$2,250 increased by the lesser of the amount of the employer contributions to the SEP or \$30,000);
7. The part of your IRA distribution that represents a return of nondeductible IRA contributions figured on Form 8606; and

8. Certain corrective distributions from qualified plans containing elective contribution arrangements.

Line 8b.—Enter the taxable amount of any annuity contract distribution made before you reached age 59½.

See section 72(q) and Pub. 575 for details on certain exceptions.

Line 8c.—Enter the taxable amount of any distribution made before you reached age 59½, under a modified endowment contract (as defined in section 7702A) entered into after June 20, 1988.

Line 8d.—If you engaged in a prohibited transaction, such as **borrowing** from your individual retirement **account** or your individual retirement **annuity**, it no longer qualified as an IRA on the first day of the tax year in which you did the

borrowing. You are considered to have received a distribution of the entire value of your account or annuity at that time. The same applies if you **pledged** any of your individual retirement **annuity** as security for a loan. If you were under age 59½ on the first day of the year, report the entire value of the account or annuity on line 8d. (If you **pledged** any of your retirement **account**, see the instructions for line 8e.)

Note: If you enter an amount on line 8d, do not enter an amount on line 8a or 8e for this IRA.

Line 8e.—If you **pledged** any of your individual retirement **account** as security for a loan, you are considered to have received a distribution of the amount pledged. If you were under age 59½ at the time of the pledge, enter the amount pledged on line 8e. (If you **borrowed** from your individual retirement **account** or **annuity** or **pledged** your individual retirement **annuity**, see the instructions for line 8d.)

Line 8f.—You are considered to have received a distribution equal to the cost of any “collectible” (defined below) in which you invested funds of your IRA in 1991. Include the total cost of the collectible as income on your 1991 Form 1040, line 16b. If you were under age 59½ when the funds were invested, enter the cost of the collectible on line 8f.

For this tax, a **collectible** is:

1. Any work of art,
2. Any rug or antique,
3. Any metal or gem,
4. Any stamp or coin (but see **Exception** below),
5. Any alcoholic beverage, or
6. Any other tangible personal property specified by regulations under section 408(m).

Exception: You may invest your IRA funds in U.S. one, one-half, one-quarter, and one-tenth ounce gold coins, and one ounce silver coins, minted after September 30, 1986.

Line 9.—The 10% tax on early distributions does not apply to certain distributions that are specifically excepted by law. See the instructions for lines 9a–9g for a discussion of these exceptions.

Line 9a.—Distributions that are made to a beneficiary (or to the estate of the plan participant or annuity holder) on or after the death of the participant or holder are not subject to the additional tax. This exception does not apply to taxable distributions from modified endowment contracts. If you owe no tax on your early distribution because of this exception, and the Form 1099-R that you received shows distribution code 4, you need not file Form 5329 unless otherwise required to do so.

Line 9b.—Distributions that are made because you are totally and permanently disabled are not subject to the additional tax. To meet this exception you must be unable to engage in any substantial gainful activity because of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration. If you owe no tax on your early distribution because of this exception, and the Form 1099-R that you received shows distribution code 3, you need not file Form 5329 unless otherwise required to do so.

Line 9c.—Distributions that are part of a series of substantially equal periodic payments (made not less frequently than annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary are not subject to the additional tax. To qualify for this exception, if the distributions are from a qualified employee plan, they must begin after the employee separates from service.

Note: *The exceptions to the additional tax listed on lines 9d through 9f DO NOT apply to distributions from IRAs or annuity or modified endowment contracts. They apply only to distributions from qualified employee plans.*

Line 9d.—Distributions that are made to you after you separate from service as an employee during or after the year in which you reach age 55 are not subject to the additional tax.

Line 9e.—Distributions you receive, to the extent that you have deductible medical expenses for the year under section 213 (regardless of whether you actually itemize deductions for that year), are not subject to the additional tax. This exception applies only to the amount of medical expenses that exceeds 7.5% of your adjusted gross income (AGI).

Example. *In 1991 you had a total of \$5,000 of qualified medical expenses, and you withdrew \$4,000 from your qualified pension plan that would otherwise be subject to the additional tax on early withdrawals. Your AGI for 1991 is \$30,000. Under section 213, you could deduct only \$2,750 of your medical expenses, that is, \$5,000 less \$2,250 (7.5% of your AGI). Whether or not you itemize deductions for 1991, the line 9e exception applies to \$2,750 of your early withdrawal.*

Line 9f.—Distributions that are made to an alternate payee under a qualified domestic relations order are not subject to the additional tax.

Line 9g.—In addition to the exceptions listed on lines 9a through 9f, the tax does not apply to any distributions from a plan maintained by an employer if:

1. You separated from service by March 1, 1986;

2. As of March 1, 1986, your entire interest was in pay status under a written election which provides a specific schedule for distribution of your entire interest; and

3. The distribution is actually being made under the written election.

Also, distributions from annuity contracts are not subject to the tax on early distributions to the extent that the distributions are allocable to investment in the contract before August 14, 1982.

For additional exceptions applicable to annuities, see section 72(q)(2).

If any of these exceptions applies, enter it on line 9g.

Part III—Tax on Excess Accumulation in Qualified Retirement Plans (Including IRAs) (Section 4974)

If you do not receive the minimum required distribution from your qualified retirement plan, you have an excess accumulation subject to an additional tax. For purposes of the tax on excess accumulations, “qualified retirement plan” has the same definition as it does for Part II.

The additional tax is equal to 50% of the difference between the amount that was required to be distributed and the amount that was actually distributed.

IRA.—You must start receiving distributions from your IRA by April 1 of the year following the year in which you reach age 70½. At that time, you may receive your entire interest in the IRA, or begin receiving periodic distributions over your life expectancy or over the joint life expectancy of you and your designated beneficiary (or over a shorter period).

If you choose to receive periodic distributions, you must receive a minimum required distribution each year. For each year after the year in which you reach age 70½, you must receive the minimum required distribution by December 31 of that year.

Figure the minimum required distribution by dividing the account balance of the IRA on December 31 of the year preceding the distribution by the applicable life expectancy.

For applicable life expectancies you must use the expected return multiples from the tables in Pub. 590 or **Pub. 939**, Pension General Rule (Nonsimplified Method).

Under an alternative method described in Pub. 590, if you have more than one IRA, you may take the minimum distribution from any one or more of the individual IRAs.

For more details on the minimum distribution rules, with examples, and the life expectancy tables, see Pub. 590.

Qualified Pension, Profit-Sharing, and Stock Bonus Plan.—In general, you must begin receiving distributions from your qualified retirement plan no later than April 1 of the year following the year in which you turned age 70½.

Your plan administrator figures the amount that must be distributed each year. See Proposed Regs. 1.401(a)(9)-1F.

Exceptions.—If you turned age 70½ before 1988, or are covered by a governmental or church plan, you must start receiving distributions from your qualified retirement plan no later than April 1 following the **later** of: (1) the year in which you turned age 70½, or (2) the year in which you retired.

If you turned age 70½ in 1988 but had not retired by January 1, 1989, you were required to start receiving distributions no later than April 1, 1990. If you turned 70½ in 1988 and retired in 1988, you were required to start receiving distributions no later than April 1, 1989.

5% owners.—If you were a 5% owner of the employer maintaining the plan, you must begin receiving distributions no later than April 1 of the year following the year in which you turned age 70½, regardless of when you retire, and even if you turned age 70½ before 1988. See Pub. 575 for details on what constitutes 5% ownership.

Note: *The IRS may excuse this tax on excess accumulations. To get the tax excused, you must show that any shortfall in the amount of withdrawals from your qualified retirement plan was due to reasonable error, and that you are taking appropriate steps to remedy the shortfall. If you believe you qualify for this relief, file Form 5329, pay this excise tax, and attach your letter of explanation. If the IRS grants your request, we will send you a refund.*

Part IV—Tax On Excess Distributions From Qualified Retirement Plans (Including IRAs) (Section 4980A)

Generally, if you received distributions in 1991 from “qualified retirement plans” (including IRAs) in excess of \$150,000 (or \$136,204 if you made a special grandfather election), you may have to pay an additional 15% tax on the excess.

A qualified retirement plan for this purpose has the same definition as it does for Part II.

If you made a special grandfather election in 1987 or 1988 under Temp. Regs. section 54.4981A-1T, use either Worksheet 1 or 2 on page 6 to figure your 1991 recovery amount and your unrecovered grandfather amount for

1992. Be sure to attach a copy of the worksheet to your return.

Be sure also to keep the completed worksheet as part of your permanent records to help you figure your 1992 recovery amount. In the case of your death, the executor or administrator of your estate will need to know the unrecovered amount to figure any increase in estate tax that may be due under section 4980A(d) on Schedule S of Form 706.

Note: You cannot revoke in 1991 a grandfather election you made in 1987 or 1988.

Worksheet 1. Discretionary Method.—Complete Worksheet 1 if you elected the discretionary method. Under this method, 10% of the distributions you receive during the calendar year is treated as a recovery of the grandfather amount.

Line 3 of Worksheet 1.—Under the discretionary method of recovery, you may elect to accelerate the rate of recovery to 100%. If you make the election, the rate of recovery is accelerated to 100% for the calendar year for which the election is made and for all later years.

You may also make (or revoke) an acceleration election for a prior year (and all later years) on a timely filed amended return for any prior years to which the discretionary method of recovery applied. Clearly indicate in the explanation space provided on **Form 1040X**, Amended U.S. Individual Income Tax Return, that you are amending your return to make (or revoke) an acceleration election under Internal Revenue Code section 4980A, and attach the version of Form 5329 that was used for the year you are amending. Be sure to check item 1 or 2 under “Acceleration Elections” on each applicable Form 5329. You may need to amend more than one return because an amendment of an earlier year return to elect (or revoke) 100% acceleration will also require consistent treatment on later year returns.

An acceleration election becomes irrevocable once the period for amending your return for the year of the election has expired. Acceleration applies to all distributions received during a calendar year and all later calendar years. If you have a fiscal tax year, you make the acceleration election on your return for your tax year that begins within the first calendar year for which the election applies.

Worksheet 2.—Attained Age Method.—Complete Worksheet 2 if you elected the attained age method. Under this method, you figure the part of distributions you received during any year that is treated as a recovery of the grandfather amount by multiplying the distributions you received by a fraction. The numerator of the fraction is the difference between your attained age in completed months on August 1, 1986, and age 35 (420 months). The denominator of the fraction is the difference between your attained age in completed months on December 31, 1991, and age 35 (420 months).

See Temp. Regs. section 54.4981A-1T for more details on the two grandfather recovery methods and recordkeeping requirements.

Lines 16 and 20.—Retirement distributions are of two types: (1) regular retirement distributions, and (2) lump-sum distributions. For a distribution you receive to be treated as a lump-sum distribution, you must make certain elections under section 402 or 403, such as 5-year averaging, for that distribution. See Form 4972.

If you rolled over part of a distribution, you must treat the part that you did not roll over as a regular, not a lump-sum, distribution. Include it on line 16 (subject to the following exceptions).

Do not include the following distributions on line 16 or 20:

1. Distributions that you rolled over;

2. Distributions that are nontaxable because they are from your investment in the contract, such as a return of employee contributions or nondeductible IRA contributions;

3. Certain payments made to a spouse or former spouse under a qualified domestic relations order; and

4. Distributions made as a result of death.

See section 4980A(c)(2).

Lines 17a and 21a.—The threshold amount depends on whether you have made a grandfather election. If you have not elected to use the special grandfather rule, use the \$150,000 threshold amount. If you have made a special grandfather election, enter \$136,204 for 1991. For lump-sum distributions, use \$750,000 if you did not elect the special grandfather rule. If you made a grandfather election, the threshold amount for 1991 is \$681,020.

Lines 17b and 21b.—Enter the amount from line 3 of Worksheet 1 or line 6 of Worksheet 2, whichever applies.

Lines 19b and 23b.—You offset the 15% excise tax on excess distributions by the 10% tax on early distributions under section 72(t), to the extent that the 10% tax applies to excess distributions. If you entered an amount on line 11 that is attributable to early distributions reported on line 8a, 8d, 8e, or 8f, figure the offset amount, if any, as follows:

1. Add the amounts on lines 8a, 8d, 8e, and 8f,
2. Subtract any amount on line 9h that is attributable to the distributions included in step 1 above, and
3. Subtract line 17c or 21c from the result obtained in step 2 above.

If the result from step 3 is zero or less, you are not eligible for an offset. If the result is greater than zero, multiply the result by 10% (the rate of the section 72(t) tax), and enter that result on line 19b or 23b.

Worksheet 1 to figure your unrecovered grandfather amount under the **Discretionary Method**
Attach a copy of this Worksheet to your 1991 return.

- 1 Remaining unrecovered grandfather amount as of 1/1/91 (from line 4 of your 1990 worksheet) . . . _____
- 2 Distributions received during 1991 _____
- 3 1991 recovery of grandfather amount. (Enter the **lesser** of line 1 **or** 10% (.10) or, if elected, 100% (1.00) of line 2.) Enter here and on line 17b or 21b of Form 5329 (ratably if both) _____
- 4 Remaining unrecovered grandfather amount for 1992. (Subtract line 3 from line 1.) _____

Worksheet 2 to figure your unrecovered grandfather amount under the **Attained Age Method**
Attach a copy of this Worksheet to your 1991 return.

Note: *If you were born after August 1, 1951, you cannot use this method.*

- 1 Remaining unrecovered grandfather amount as of 1/1/91 (from line 7 of your 1990 worksheet) . . . _____
- 2 Distributions received during 1991 _____
- 3a Attained age in completed months on 8/1/86 _____
- b Number of completed months at age 35 420
- c Subtract line 3b from line 3a _____
- 4a Attained age in completed months on 12/31/91 _____
- b Number of completed months at age 35 420
- c Subtract line 4b from line 4a _____
- 5 Divide line 3c by line 4c. Enter the result as a percentage _____ %
- 6 1991 recovery of grandfather amount. (Enter the **lesser** of (a) line 1 **or** (b) line 2 multiplied by the percentage on line 5.) Enter here and on line 17b or 21b of Form 5329 (ratably if both) _____
- 7 Remaining unrecovered grandfather amount for 1992. (Subtract line 6 from line 1.) _____

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