



Instructions for Form 5329

Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs

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

Changes To Note

- Part I now includes the tax on early distributions from Roth IRAs.
- Part II was added to reflect the new tax on distributions from education (Ed) IRAs not used for educational expenses.
- Parts IV and V were added to reflect the new taxes on excess contributions to Roth IRAs and Ed IRAs, respectively.
- Part VI was expanded to take into account prior year excess contributions to Medical Savings Accounts (MSAs).
- The exceptions from the tax on early distributions (listed in the instructions for line 2) were expanded with new exceptions for distributions for higher education expenses and first home purchases.

General Instructions

Purpose of Form

Use Form 5329 to report any additional income tax or excise tax you may owe in connection with individual retirement arrangements (IRAs), other qualified retirement plans, annuities, modified endowment contracts, or MSAs.

Do not use Form 5329 to report a deduction for contributions to an IRA or MSA. Report deductible contributions to a traditional IRA on **Form 1040** or **1040A**. If you make nondeductible contributions to an IRA, use **Form 8606**, Nondeductible IRAs, to report the nondeductible contribution. Report an MSA deduction on **Form 8853**, Medical Savings Accounts and Long-Term Care Insurance Contracts.

Who Must File

You **MUST** file Form 5329 if any of the following apply.

- You owe a tax on early distributions from your IRA or other qualified retirement plan, annuity, or modified endowment contract but distribution code 1 is not shown in box 7 of **Form 1099-R**, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. (complete Part I).
- You meet an exception to the tax on early distributions, but distribution code 2, 3, or 4 is not shown in box 7 of Form 1099-R, or the distribution code shown is incorrect.
- You owe a tax because you received distributions from an Ed IRA in excess of amounts you spent for educational expenses (complete Part II).
- You owe a tax because of excess contributions to your traditional IRAs (complete Part III), Roth IRAs (complete Part IV), Ed IRAs (complete Part V), or MSAs (complete Part VI).
- You owe a tax because you did not receive a minimum required distribution from your qualified retirement plan (complete Part VII).
You **DO NOT** have to file Form 5329 if:
 - You owe **only** the 10% tax on early distributions (distribution code 1 must be shown in box 7 of Form 1099-R). If you are filing **Form 1040**, U.S. Individual Income Tax Return, do not complete Form 5329. Enter 10% of the taxable part of your distribution on Form 1040, line 53. Write "No" on the dotted line next to line 53 to indicate that you do not have to file Form 5329.
 - You received an early distribution from your plan, but meet an exception to the tax (distribution code 2, 3, or 4 must be correctly shown on Form 1099-R).
 - You rolled over the taxable part of all distributions you received during the year.

When and Where To File

Attach your 1998 Form 5329 to your 1998 Form 1040 and file both by the due date for your Form 1040 (including extensions).

If you do not have to file Form 1040 but owe a tax on Form 5329 or otherwise have to file Form 5329 (see above), you **must** still complete and file it with the IRS at the time and place you would be required to file Form 1040. If you are filing your 1998 Form 5329 by itself, be sure to include your address on page 1 and your signature and date on page 2. Enclose, but do not attach, a check or money order payable to the "United States Treasury" for the total of any taxes due. Include your social security number and "1998 Form 5329" on the check or money order.

Filing for Previous Tax Years

If you are filing a Form 5329 to pay a tax for a previous year, you must use that year's version of the form. For example, if you are paying tax for 1996, you must use the 1996 version of the form to report the tax.

If you owe a tax for that previous year because of an early distribution, complete the appropriate part(s) of Form 5329 for that year and attach it to **Form 1040X**, Amended U.S. Individual Income Tax Return. Be sure to include the distribution as additional income on Form 1040X if not previously reported.

If you owe only a tax other than the tax on early distributions for a previous year, file Form 5329 by itself for that year. Be sure to include your signature and date on page 2. Enclose, but do not attach, a check or money order payable to the "United States Treasury" for the amount of tax due. Include your social security number, "Form 5329," and the year for which the form is being filed on the check or money order.

Definitions

Qualified Retirement Plan

A qualified retirement plan includes:

- A qualified pension, profit-sharing, and stock bonus plan (including a qualified cash or deferred arrangement (CODA) under section 401(k)),
- A qualified annuity plan,
- A tax-sheltered annuity contract,
- An individual retirement account, and
- An individual retirement annuity.

Note: *Ed IRAs and MSAs are not qualified retirement plans.*

Traditional IRAs

A traditional IRA is an individual retirement account or individual retirement annuity described in sections 408(a) and (b), including a simplified employee pension (SEP) IRA, but not including a SIMPLE IRA or Roth IRA.

SEP IRAs. Section 408(k) describes a SEP as an employer-sponsored plan under which an employer can make contributions to IRAs established for its employees. The term SEP IRA means an IRA that receives contributions made under a SEP. The term SEP includes a salary reduction SEP described in section 408(k)(6).

SIMPLE Retirement Plans

A SIMPLE retirement plan is a written arrangement established under section 408(p) that provides a simplified tax-favored retirement plan for small employers. A SIMPLE retirement plan can be an individual retirement account or an individual retirement annuity.

Roth IRAs

A Roth IRA is an IRA that meets the requirements of section 408A. Many of the same rules that apply to traditional IRAs apply to Roth IRAs. One difference is that contributions to Roth IRAs are never deductible. The most significant difference for purposes of this form is that the minimum distribution rules (see Part VII) do not apply during the lifetime of the owner.

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 **Part**

I—Tax on Early Distributions below for details on early distributions that are subject to an additional tax.

Rollover

A rollover is a tax-free distribution (withdrawal) of assets from one qualified retirement plan that is reinvested in another plan. Generally, you must complete the rollover within 60 days following the distribution to qualify it for tax-free treatment. Get **Pub. 590**, Individual Retirement Arrangements (IRAs), for more details and additional requirements regarding rollovers.

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

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 a percentage 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.

For IRAs, treat all taxable alimony received under a decree of divorce or separate maintenance as compensation.

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

Education (Ed) IRAs

An Ed IRA is a trust or custodial account described in section 530 that is created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the designated beneficiary of the account.

Taxpayers may deposit up to \$500 per year into an Ed IRA for a child under age 18. The total contributions (by all taxpayers) for the child during the tax year may not exceed \$500 and each contributor is subject to the contributions limit of section 530(c) based on adjusted gross income. The **beneficiary** is subject to an

additional tax of 6% (figured in Part V of Form 5329) for any contributions in excess of either of these limits.

Distributions from an Ed IRA that exceed the child's qualified higher education expenses in a tax year are generally subject to income tax (figured on Form 8606) and to an additional tax of 10% (figured in Part II of Form 5329).

Medical Savings Accounts (MSAs)

An MSA is a tax-exempt trust or custodial account described in section 220 set up in the United States exclusively for paying the qualified medical expenses of the account holder or the account holder's spouse or dependent(s) in conjunction with a high-deductible health plan. See Form 8853 for details.

Additional Information

For more details, see Pub. 590. Also see **Pub. 575**, Pension and Annuity Income.

Specific Instructions

Joint returns. Each spouse must complete a **separate** Form 5329 for taxes attributable to his or her own qualified retirement plan, annuity, modified endowment contract, Ed IRA, or MSA. If both spouses owe penalty taxes and are filing a joint return, enter the combined total tax from Forms 5329 on Form 1040, line 53.

Amended return. If you are filing an amended 1998 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 1998. See **Filing for Previous Tax Years** on page 1.

Part I—Tax on Early Distributions

In general, if you receive an early distribution from a qualified retirement plan (defined above), annuity contract, or a modified endowment contract (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.

New for 1998: *Early distributions from Roth IRAs are reported in Part I (i.e., a Roth IRA is a qualified retirement plan to which the early distribution rules apply).*

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

- 1998 IRA contributions withdrawn during the year or 1997 excess contributions withdrawn in 1998 before the filing date (including extensions) of your 1997 income tax return;
- Excess IRA contributions for years before 1997 that were withdrawn in 1998, and 1997 excess contributions withdrawn after the due date (including extensions) of your 1997 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 the maximum allowable deduction under section 219(b), which was \$2,250 for tax years before 1997 and is \$2,000 for tax years after 1996. (If the total contributions for the year included employer contributions to a SEP, increase the maximum allowable deduction under section 219(b) by the smaller of the amount of the employer contributions to the SEP or \$30,000.);
- The part of your IRA distributions that represents a return of nondeductible IRA contributions figured on Form 8606;
- Distributions rolled over to another retirement arrangement or plan;
- Distributions of excess contributions from a qualified cash or deferred arrangement;
- Distributions of excess aggregate contributions to meet nondiscrimination requirements for employer matching and employee contributions;
- Distributions of excess deferrals; and
- Amounts distributed from unfunded deferred compensation plans of tax-exempt or state and local government employers.

See the instructions for **Line 2** below for other distributions that are not subject to the tax.

Line 1

Enter the taxable amount of early distributions made to you from (a) a qualified pension plan, including traditional IRAs and Roth IRAs (and income earned on excess contributions to your traditional IRAs and Roth IRAs), (b) an annuity contract, or (c) a modified endowment contract (as defined in section 7702A) entered into after June 20, 1988. The

taxable amount of a distribution is generally the amount you include in gross income.

However, if you receive a distribution from a Roth IRA, add the amounts on lines 22 and 25 of Form 8606 and include the result here.

Prohibited transactions. If you engaged in a prohibited transaction, such as **borrowing** from your individual retirement **account** or **annuity**, or pledging your individual retirement **annuity** as security for a loan, your account or annuity no longer qualified as an IRA on the first day of the tax year in which you did the borrowing or pledging. You are considered to have received a distribution of the entire value of your account or annuity at that time. Using your IRA as a basis for obtaining a benefit is also a prohibited transaction. If you were under age 59½ on the first day of the year, report the entire value of the account or annuity on line 1.

Pledging individual retirement account. If you pledged any part of your individual retirement **account** as security for a loan, that **part** is considered distributed to you at the time pledged. If you were under age 59½ at the time of the pledge, enter the amount pledged on line 1.

Collectibles. Generally, if your IRA trustee invested your funds in collectibles, you are considered to have received a distribution equal to the cost of any "collectible." Collectibles include works of art, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and certain other tangible personal property. If you were under age 59½ when the funds were invested, include the cost of the collectible on line 1. Also, include the total cost of the collectible as income on your 1998 Form 1040, line 15b.

Exceptions. Your IRA trustee 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. For tax years beginning after 1997, the IRA trustee may also invest your IRA funds in U.S. platinum coins, and in certain gold, silver, platinum, or palladium bullion, provided the bullion remains in the physical possession of the trustee.

Note: You must include the taxable amount of all distributions (including income earned on investments) from line 1, on either line 15b or 16b, Form 1040, whichever applies.

Line 2

The 10% additional tax does not apply to certain distributions specifically excepted by the Code. Enter on line 2 the amount that can be excluded. In the space provided, enter the applicable exception number (01-10) from the following:

No.	Exception
01	Distribution due to separation from service in or after the year of reaching age 55
02	Distribution made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from a qualified employee plan, payments must begin after separation from service)
03	Distribution due to total and permanent disability
04	Distribution due to death (does not apply to modified endowment contracts)
05	Distribution to the extent you have medical expenses deductible under section 213
06	Distributions made to an alternate payee under a qualified domestic relations order
07	Distributions made to unemployed individuals for health insurance premiums
08	Distributions made for higher education expenses
09	Distributions made for first home purchases
10	Other (see instructions below)

Note: The following limitations apply to the exceptions listed above:

- Exceptions 01 and 06 do not apply to distributions from IRAs or annuity or modified endowment contracts. They apply only to distributions from qualified employee plans.
- Exceptions 05, 07, 08, and 09 do not apply to annuity or modified endowment contracts. Exceptions 07, 08, and 09 apply only to distributions from IRAs.

Other exceptions. In addition to the exceptions listed above, the tax does not apply to the following:

- 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 that provides a

specific schedule for distribution of your entire interest; and

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

- Distributions that are dividends paid with respect to stock described in section 404(k).
- Distributions from annuity contracts to the extent that the distributions are allocable to investment in the contract before August 14, 1982.

For additional exceptions that apply to annuities, see Pub. 575.

If any of these exceptions applies, include the amount that can be excluded on line 2. Enter Exception No. 10 in the space provided.

Also, if you received a Form 1099-R for a distribution that incorrectly indicated an early distribution (code 1 was entered in box 7 of the Form 1099-R), include on line 2 the amount of the distribution that you received when you were age 59½ or older. Enter Exception No. 10 in the space provided.

Line 4

Multiply line 3 by 10%. However, if any amount on line 3 was a distribution from a SIMPLE retirement plan (see definition on page 2), you must multiply that amount by 25% instead of 10%. SIMPLE distributions are included in boxes 1 and 2a of Form 1099-R and are designated with a code "S" in box 7.

Part II—Tax on Distributions From Ed IRAs Not Used for Educational Expenses

Line 6

The 10% additional tax does not apply to distributions that are—

- Due to the death or disability of the beneficiary;
- Made on account of a scholarship, allowance, or payment described in section 25A(g)(2);
- Taxable solely because you chose to waive any exclusion you may be entitled to for your 1998 qualified higher education expenses. (This election was made by checking the box on line 28 of Form 8606.)

The additional 10% tax also does not apply to excess contributions to an Ed IRA that are returned (distributed) to the contributor before the due date of the contributor's

return (including extensions). The distribution must include earnings on the excess contributions.

Enter on line 6 the total amount that can be excluded.

Part III—Tax on Excess Contributions to Traditional IRAs

If you contributed, either this year or in earlier years, more to your IRA than is or was allowable (see Line 9 below), you may have to pay a tax on excess contributions. However, you can withdraw some or all of your excess contributions for 1998 and they will not be taxed as a distribution if:

- You make the withdrawal by the due date (including extensions) of your 1998 income tax return,
- You do not claim a deduction for the amount of the contribution withdrawn, and
- You also withdraw from your IRA any income earned on the withdrawn contributions.

Do not include the withdrawn contributions as excess contributions on line 9.

You **must** include the income earned on the contributions withdrawn by the due date of your income tax return on Form 1040 for the year in which you made the contribution. Also, if you had not reached age 59½ at the time you received the distribution, report the income (but not the withdrawn contributions) as an early withdrawal in Part I, line 1.

Line 9

Enter the excess contributions you made for 1998. To figure this amount, subtract your contributions limit from your actual contributions. Your

contributions limit is the smaller of your taxable compensation or \$2,000.

Taxable compensation (defined on page 2) must be reduced by any deductions on Form 1040, lines 27 and 29. Do not reduce taxable compensation by any loss from self-employment. If married filing jointly, combine these amounts and reduce the total by your spouse's allowed IRA contributions.

If your taxable compensation is less than \$2,000 and you are married filing a joint return and your taxable compensation is less than your spouse's, see Pub. 590 for special rules that apply.

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

Line 10

Enter the total amount of 1997 excess contributions not withdrawn from your IRA by the due date of your 1997 income tax return, plus the 1996 and earlier excess contributions not withdrawn or otherwise eliminated before January 1, 1998.

This entry should be the same as the amount from line 12 of your 1997 Form 5329.

Line 11

If you contributed less to your IRA for 1998 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 credit. **Do not** enter an amount on line 11 if you have an amount on line 9.

Line 12

If you withdrew any money from your IRA in 1998 that must be included in your income for 1998, enter that

Worksheet for line 11 (keep for your records)

- Enter the smaller of:
 - \$2,000; or
 - Your wages and other earned income (combined for you and your spouse, if married filing jointly) from Form 1040, minus any deductions on Form 1040, lines 27 and 29. If married filing jointly, reduce this amount by your spouse's allowed IRA contribution. Do not reduce wages by any loss from self-employment.
- Enter amounts actually contributed to your IRA accounts (including those made to Roth IRA accounts) 2. _____
- Contribution credit.**—Subtract line 2 from line 1 (but do not enter less than zero). Enter this amount on line 11 of Form 5329. You should also add to the amount figured on line 10a or 10b (whichever applies to you) of the IRA Worksheet in the Form 1040 instructions the **smaller** of either: (a) this amount, or (b) your earlier years' excess contributions not previously eliminated 3. _____

amount on line 12. Do not include any contributions withdrawn that will be reported on line 13.

Line 13

Enter any excess contributions to your IRA for 1976 through 1996 that you withdrew in 1998, and any 1997 excess contributions that you withdrew after the due date (including any extensions) for your 1997 income tax return, if:

- You did not claim a deduction for the excess, and
- The total contributions to your IRA for the tax year for which the excess contributions were made were not more than the maximum allowable deduction under section 219(b), which was \$2,250 for tax years before 1997 and is \$2,000 for tax years after 1996. (If the total contributions for the year included employer contributions to a SEP, increase the maximum allowable deduction under section 219(b) by the smaller of the amount of the employer contributions to the SEP or \$30,000.)

Part IV—Tax on Excess Contributions to Roth IRAs

If you contributed more to your Roth IRA than is allowable (see **Line 18** below), you may have to pay a tax on excess contributions. However, you can withdraw some or all of your excess contributions for 1998 and they will not be taxed as a distribution if:

- You make the withdrawal by the due date (including extensions) of your 1998 income tax return, and
- You also withdraw from your Roth IRA any income earned on the withdrawn contributions.

Do not include the withdrawn contributions as excess contributions on line 18.

You **must** include the income earned on the contributions withdrawn by the due date of your income tax return on Form 1040 for the year in which you made the contribution. Also, if you had not reached age 59½ at the time you received the distribution, report the income (but not the withdrawn contributions) as an early withdrawal in Part I, line 1.

Line 18

Enter the excess contributions you made for 1998. To figure this amount, subtract your contributions limit from your actual contributions. Your

contributions limit is the smaller of your taxable compensation or \$2,000, less any amount you contributed to a traditional IRA.

Taxable compensation (defined on page 2) must be reduced by any deductions on Form 1040, lines 27 and 29. Do not reduce taxable compensation by any loss from self-employment. If married filing jointly, combine these amounts and reduce the total by your spouse's allowed contributions to traditional IRAs and Roth IRAs (and then by any amount you contributed to traditional IRAs).

If your taxable compensation is less than \$2,000 and you are married filing a joint return, the total combined allowable contributions limit for you and your spouse cannot be more than the total of your and your spouse's taxable compensation. To figure your allowable contributions limit, subtract from your combined taxable compensation limit your spouse's allowed contributions to his or her traditional IRAs and Roth IRAs and any amount you contributed to traditional IRAs. For more details, see Pub. 590.

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

Part V—Tax on Excess Contributions to Ed IRAs

If more was contributed to your Ed IRA than is allowable (see **Line 20** below), you may have to pay a tax on excess contributions. However, some or all of the excess contributions for 1998 can be withdrawn and they will not be taxed as a distribution if:

- The withdrawal is made by the due date (including extensions) of the contributor's 1998 income tax return, and
- Any income earned on the withdrawn contributions is also withdrawn from your Ed IRA.

Do not include the withdrawn contributions as excess contributions on line 20.

Any income earned on the withdrawn contributions **must** be included on the contributor's Form 1040 for the year the excess contribution was made.

Line 20

Enter contributions in excess of \$500 that were made to your Ed IRAs for 1998. Also include amounts contributed to your Ed IRAs that

exceeded the contributions limit based on the contributor's AGI (see section 530(c)). For more details, see Pub. 590 or see the discussion of Ed IRAs (including the Ed IRA Contribution Worksheet) on page 3 of the instructions for Form 8606.

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

Part VI—Tax on Excess Contributions to Medical Savings Accounts (MSAs)

If you or your employer contributed, either in 1998 or 1997, more to your MSAs than is allowable (see **Line 22** below), you may have to pay a tax on excess contributions. However, you can withdraw some or all of your excess contributions for 1998 and they will not be taxed as a distribution if:

- You make the withdrawal by the due date (including extensions) of your 1998 income tax return,
- You do not claim a deduction for the amount of the contribution withdrawn, and
- You also withdraw from your MSA any income earned on the withdrawn contributions.

Do not include the withdrawn contributions as excess contributions on line 22.

You **must** include the income earned on the contributions withdrawn by the due date of your income tax return on Form 1040 for the year in which you made the contribution. Also, report the withdrawn contributions (and the earnings on them) as MSA distributions on lines 8a and 8b of Form 8853.

Line 22

Enter the excess contributions you made to MSAs in 1998. To figure this amount, subtract your contributions limit (line 7 of Form 8853) from your actual contributions (line 4 of Form 8853).

Also enter on line 22 any excess contributions your employer made to your MSAs. For more details, see the instructions for Form 8853.

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

Line 23

Enter the total amount of 1997 excess contributions not withdrawn from your

MSAs by the due date of your 1997 income tax return.

Line 24

If you contributed less to your MSA for 1998 than your contributions limit, and your excess contributions from 1997 have not been eliminated, complete the worksheet below to see if you have a contribution credit. **Do not** enter an amount on line 24 if you have an amount on line 22.

Line 25

If you withdrew any money from your MSA in 1998 that must be included in your income for 1998, enter that amount on line 25. Do not include any withdrawn contributions reported on line 26.

Part VII—Tax on Excess Accumulation in Qualified Retirement Plans

If you do not receive the minimum required distribution from your qualified retirement plan (including an IRA other than an Ed IRA or a Roth IRA), you have an excess accumulation subject to an additional tax.

For purposes of the tax on excess accumulations, a qualified retirement plan also includes an eligible deferred compensation plan under section 457.

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.

Required Distributions

IRA (other than an Ed IRA or a Roth 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**, General Rule for Pensions and Annuities.

Under an alternative method, 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 (including examples) and the life expectancy tables, see Pub. 590.

Qualified pension, profit-sharing, stock bonus, or section 457 deferred compensation plan. In general, you must begin receiving distributions from your plan no later than April 1 following the **later** of (1) the year in which you reached age 70½, or (2) the year in which you retired.

Your plan administrator figures the amount that must be distributed each year. Unless you are covered by a governmental or church plan, if you retire in a calendar year after the year in which you reach age 70½, the amount to be distributed must be actuarially increased to take into account the period after age 70½ in which you were not receiving any benefits under the plan.

Exception. 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 reached age 70½, regardless of when you retire.

Note: *The IRS may waive this tax on excess accumulations if you can 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.*

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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

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

- Recordkeeping,** 1 hr., 59 min.;
- Learning about the law or the form,** 42 min.;
- Preparing the form,** 1 hr., 17 min.;
- Copying, assembling, and sending the form to the IRS,** 14 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the form to this address. Instead, see **When and Where To File** on page 1.

Worksheet for line 24 (keep for your records)

1 Enter the smaller of:
• The limitation amount from line 5 of Form 8853, or
• Your compensation from the employer maintaining the high deductible health plan (see line 6 of Form 8853 and its instructions for details) 1. _____
2 Enter amount actually contributed to your account (by you or by your employer) 2. _____
3 **Contribution credit.**—Subtract line 2 from line 1 (but do not enter less than zero). Enter this amount on line 24 of Form 5329. You should also add to the amount figured on line 7 of Form 8853 the **smaller** of either: (a) this amount, or (b) your 1997 excess contributions not previously eliminated 3. _____