Instructions for Form 5329

Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts

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

General Instructions

A Change To Note
Distributions from qualified tuition programs (QTPs) or Coverdell education savings accounts (ESAs) made because of attendance by the beneficiary at a U.S. military academy generally are not subject to the 10% additional tax. See the instructions for line 6.

Purpose of Form
Use Form 5329 to report additional taxes on:

• Individual retirement arrangements (IRAs)
• Other qualified retirement plans,
• Modified endowment contracts,
• Coverdell ESAs,
• QTPs,
• or Archer MSAs.

Who Must File
You must file Form 5329 if any of the following apply:

• You received an early distribution from a Roth IRA and the amount on Form 8606, line 21 is more than the amount, if any, on Form 8606, line 23.
• You received an early distribution from a qualified retirement plan (other than a Roth IRA) and distribution code 1 is not shown in box 7 of Form 1099-R. Instead, see the instructions for Form 1040, line 28 and 30, but not by stock bonus plan (including a 401(k) plan),
• A tax-sheltered annuity contract,
• An individual retirement account (IRA),
• A Roth IRA and the amount on Form 8606, line 21 is more than the amount, if any, on Form 8606, line 23.

Note: You do not have to file Form 5329 if distribution code 1 is correctly shown in box 7 of all Forms 1099-R. Instead, see the instructions for Form 1040, line 57, for how to report the 10% additional tax directly on that line.

• You meet an exception to the tax on early distributions from the list on page 2 but box 7 of your Form 1099-R does not indicate an exception or the exception does not apply to the entire distribution.

• You received taxable distributions from Coverdell ESAs or QTPs.

• The contributions for 2003 to your traditional IRAs, Roth IRAs, Coverdell ESAs, or Archer MSAs exceed your maximum contribution limit, or you had a tax due from an excess contribution on line 17, 25, 33, or 41 of your 2002 Form 5329.

• You did not receive the minimum required distribution from your qualified retirement plan.

Additional Information


Specific Instructions

Joint returns. If both you and your spouse are required to file Form 5329, complete a separate form for each of you. Include the combined tax on Form 1040, line 57.

Amended return. If you are filing an amended 2003 Form 5329, check the box at the top of page 1 of the form. Do not use the 2003 Form 5329 to amend your return for any other year. Instead, see Prior tax years on this page.

Part I—Additional Tax on Early Distributions

In general, if you receive an early distribution (including an involuntary cashout) from an IRA, other qualified retirement plans, or a SIMPLE IRA, the part of the distribution included in income generally is subject to a 10% additional tax. See Exception for Roth IRA Distributions on page 2.
The additional tax on early distributions does not apply to:

- A distribution from a traditional or SIMPLE IRA that was converted to a Roth IRA;
- A distribution of certain excess IRA contributions (see the instructions for lines 15 and 23);
- A distribution of excess contributions from a qualified deferred compensation plan.

Note: Any related earnings withdrawn with excess contributions are subject to the additional tax on early distributions if you are under age 59 1/2 at the time of the distribution.

- A distribution of excess contributions from a qualified plan (see section 457 of the U.S. Code) at the academy, or
- A modified endowment contract.

Deferral compensation plan to the extent the distribution is not attributable to an amount transferred from a qualified retirement plan (excluding an eligible exception number 04).

See the instructions for line 2 on this page for other distributions that are not subject to the tax.

Line 1

Enter the amount of early distributions included in income that you received from:

- A qualified retirement plan, including earnings on withdrawn excess contributions to your IRAs included in income in 2005 or

Certain prohibited transactions, such as borrowing from your IRA or pledging your IRA assets as security for a loan, are considered to be distributions and may also cause you to owe the additional tax

on early distributions. See Pub. 590 for details.

Exception for Roth IRA Distributions

If you received an early distribution from a Roth IRA, first allocate the amount on your 2003 Form 8606, line 19, in the order shown, to the amounts on the lines listed below (to the extent a prior year distribution was not allocable to the amount).

Then, include on line 1 of Form 5329 the amount from line 20, which is the amount, if any, allocated to the amount on your 2003 Form 8606, line 23 (allocate this amount, if any, on Form 5329, line 2 and enter the exception number 09), or 1999 or 2000 Form 8606, line 16, or 2001, 2002, or 2003 Form 8606, line 18.

- Your 2003 Form 8606, line 23.
- Your 2002 Form 8606, line 23.
- Your 1999 Form 8606, line 15.
- Your 1998 Form 8606, line 15.
- Your 1997 Form 8606, line 15.
- Your 1996 Form 8606, line 15.
- Your 1995 Form 8606, line 15.
- Your 2000 Form 8606, line 16.
- Your 1999 Form 8606, line 15.
- Your 1998 Form 8606, line 15.
- Your 1997 Form 8606, line 15.
- Your 1996 Form 8606, line 15.
- Your 1995 Form 8606, line 15.
- Your 2001 Form 8606, line 17.
- Your 2000 Form 8606, line 16.
- Your 1999 Form 8606, line 15.
- Your 1998 Form 8606, line 15.
- Your 1997 Form 8606, line 15.
- Your 1996 Form 8606, line 15.
- Your 1995 Form 8606, line 15.
- Your 2003 Form 8606, line 18.
- Your 2002 Form 8606, line 17.
- Your 2001 Form 8606, line 17.
- Your 2000 Form 8606, line 17.
- Your 1999 Form 8606, line 17.
- Your 1998 Form 8606, line 17.
- Your 1997 Form 8606, line 17.
- Your 1996 Form 8606, line 25.

Example. You converted $20,000 from a traditional IRA to a Roth IRA in 1998 and converted $10,000 in 1999. Your 1998 Form 8606 had $5,000 on line 15 and $15,000 on line 16 and your 1999 Form 8606 had $3,000 on line 15 and $7,000 on line 16. You made Roth IRA contributions, see $2,000 for 1998 and 1999. You did not make any Roth IRA conversions or contributions for 2000 through 2003, or take any Roth IRA distributions before 2003. On July 9, 2003, at age 53, you took a $53,000 distribution from your Roth IRA. Your 2003 Form 8606 shows $33,000 on line 19; $29,000 on line 21 ($33,000 minus $4,000 for your contributions) and $0 on line 25 ($29,000 minus your basis in Roth IRA contributions of $30,000). Because you do not have an amount on your 2003 Form 8606, line 23, $4,000 of the $33,000 is first allocated to your 2003 Form 8606, line 20; then $15,000 to your 1998 Form 8606 line 16; $5,000 to your 1998 Form 8606, line 15; and $7,000 to your 1999 Form 8606, line 16. The remaining $3,000 is allocated to the $3,000 you contributed on your 1999 Form 8606, line 15. On line 1, enter $7,000 ($0 plus the $7,000 that was allocated to your 1999 Form 8606, line 16), if you take a Roth IRA distribution in 2004, the first $1,000 will be allocated to the $1,000 remaining from your 1999 Form 8606, line 15, and will not be subject to the additional tax on early distributions.

Additional Information. For more details about Distributions Taxable, In Pub. 590.

Line 2

The additional tax on early distributions does not apply to the distributions described below. Enter on line 2 the amount that can be excluded. In the space provided, enter any applicable exception number (01-11).

No. Exception
1 Qualified retirement plan distributions due to separation from service in or after the year you reach age 55 (does not apply to IRAs).
2 Distributions made as part of a series of substantially equal periodic payments (made at least annually) for your (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from an employer plan, payments must begin within the time provided, enter any applicable exception number 01-11).
3 Distributions due to total and permanent disability.
4 Distributions due to death (does not apply to modified endowment contracts).
5 Qualified retirement plan distributions to the extent you have deductible medical education expenses included in income in 2003 or multiply that amount by 25% instead of 10%.
6 Distributions from a SIMPLE IRA that was converted to a Roth IRA due to the death or disability of the owner.
7 Distributions from a qualified retirement plan due to death or disability of the owner.
8 Distributions from a qualified retirement plan due to death or disability of the owner.

Other. The following exceptions also apply:

- Distributions incorrectly indicated as early distributions on Form 5329, line 2 and enter the applicable code.
- Distributions from a plan maintained by an employer if:
- You separated from service from March 1, 1986;
- As of March 1, 1986, your entire interest was in pay status under a written election that provides a specific schedule of distribution of your entire interest; and
- The distribution is actually being made under the written election.
- Distributions that are paid dividends paid with respect to stock described in section 404(k).
- Distributions from annuity contracts to the extent the distributions are allocable to the installment in the contract before August 14, 1982.
- For additional exceptions that apply to annuities, see Pub. 575.

Line 4

If any amount on line 3 was a distribution from a SIMPLE IRA received within 2 years from the date you first participated in the SIMPLE IRA plan, you must multiply that amount by 25% instead of 10%

- Distributions are included in boxes 1a and 2a of Form 1099-R.
- Distributions are included in Form 1099-R and are designated with code B in box 7.

Part II—Additional Tax on Certain Distributions From Education Accounts

Line 6

This tax does not apply to distributions:

- Due to the death or disability of the beneficiary;
- Made on account of a tax-free scholarship, allowance, or payment described in section 25A(g)(2);
- From QTPs that were used for the qualified higher education expenses of the beneficiary;
- From QTPs and Coverdell ESAs made because of attendance by the beneficiary at a U.S. military academy. This exception applies only to the extent that the distribution does not exceed the costs of advanced education (as defined in title 10 of the U.S. Code) at the academy, or
- Distributions used for qualified higher education expenses included in income because the expenses were used to support the Hope and lifetime learning credit.

Enter on line 6 the portion of line 5 that is excluded.

Part III—Additional Tax on Excess Contributions to Traditional IRAs

If you contributed more for 2003 than is allowable or you had an amount on line 17 of your 2002 Form 5329, you may owe
this tax. But you may be able to avoid the tax on any 2003 excess contributions (see the instructions for line 15).

Line 9
Enter the amount from line 16 of your 2002 Form 5329 only if the amount on line 17 of your 2002 Form 5329 is more than zero.

Line 10
If you contributed less to your traditional IRAs for 2003 than your contribution limit for traditional IRAs, enter the difference.

You may withdraw some or all of your excess contributions for 2003 and they will not be treated as having been contributed if:

- You withdraw the excess and no traditional IRA tax return and includethe earnings in gross income (see the instructions for Form 8606 for details).
- You make the withdrawal by the due date (including extensions), of your 2003 tax return.
- You do not claim a traditional IRA deduction for the withdrawn contribution, and
- You withdraw any earnings on the withdrawn contribution (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Part IV—Additional Tax on Excess Contributions to Roth IRAs
If you contributed more to your Roth IRA for 2003 than is generally allowed (without regard to the modified AGI limitation for the excess contribution and

The total contributions to your traditional IRAs for the tax year for which the excess contributions were made were not more than:

- $3,000 ($3,500 if age 50 or older at the end of 2002) for 2002,
- $2,000 for years after 1998 and before 2002, or
- $2,250 for years before 1998.

If your employer contributions for the year included employer contributions to a SEP, increase that amount by the smaller of the amount of the employer contributions or $40,000 ($35,000 for 2001, or $30,000 for years before 2001.)

Line 15
Enter the excess of your contributions to traditional IRAs for 2003 (unless withdrawn—see below) over your contribution limit for traditional IRAs. See the instructions for line 10 to figure your contribution limit for traditional IRAs. Any amount you contribute for the year in which you reach age 70 1/2 or a later year is an excess contribution because your contribution limit is zero. Do not include rollovers in figuring your excess contributions.

You may withdraw some or all of your excess contributions for 2003 and they will not be treated as having been contributed if:

- You make the withdrawal by the due date (including extensions), of your 2003 tax return.
- You do not claim a traditional IRA deduction for the withdrawn contribution, and
- You withdraw any earnings on the withdrawn contribution (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Part V—Additional Tax on Excess Contributions to Coverdell ESAs
If the contributions to your Coverdell ESAs for 2003 were more than is allowable or you had an amount on line 33 of your 2002 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2003 excess contributions (see the instructions for line 31).
contributions your employer made. See #be made before June 1, 2004. If you do, the amount.

If you owned more than

amount.


earnings in gross income for the year in which you receive the withdrawn contributions and earnings.

• You withdraw any income earned on the withdrawn contributions and include the earnings in gross income for the year that the withdrawn contributions are no longer treated as having been contributed.

Note:


If you or your employer contributed more to your Archer MSA for 2003 than is allowable or you had an amount on line 41 of your 2002 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2003 excess contributions (see the instructions for line 39).

• The excess, if any, of Form 5329, line 34, over Form 5329, line 36.

If you have more than one IRA, you may take the minimum required distribution from any one or more of the individual IRAs.

For more details on the minimum distribution rules (including examples), see Pub. 590.

Roth IRA.

There are no minimum required distributions for the lifetime of the owner of a Roth IRA. Following the death of the Roth IRA owner, required distribution rules apply to the beneficiary. See Pub. 590 for details.

Qualified retirement plans (other than IRAs) and eligible section 457 deferred compensation plans. In general, you must begin receiving distributions no later than April 1 following the later of (a) the year in which you reach age 70½ or (b) the year in which you retire.

Exception. If you owned more than 5% 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 reach age 70½, regardless of when you retire.

You amend or withdraw the excess contributions, you may still make the withdrawal, but it must be made before June 1, 2004. If you do, file an amended return. Report any related earnings for 2003 on the amended return and include an explanation of the withdrawal. Make any other necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Include on line 39 any excess contributions your employer made. See Form 8853 for details.

Part VII—Additional Tax on Excess Accumulation in Qualified Retirement Plans (Including IRAs)

You owe this tax if you do not receive the minimum required distribution from your qualified retirement plan, including an IRA or an eligible section 457 deferred compensation plan. The additional tax is 50% of the excess accumulation—the difference between the amount that was required to be distributed and the amount that was actually distributed.

Required Distributions

IRA (other than 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. If you choose to receive periodic distributions, you must receive a minimum required distribution each year. You may figure the minimum required distribution by dividing the account balance of your IRAs (other than Roth IRAs) on December 31 of the year preceding the distribution by the applicable life expectancy. For applicable life expectancies, see Pub. 590.

If the trustee, custodian, or issuer of your IRA informs you of the minimum required distribution, you may use that amount.

Part VI—Additional Tax on Excess Contributions to Archer MSAs

If you or your employer contributed more to your Archer MSA for 2003 than is allowable or you had an amount on line 41 of your 2002 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2003 excess contributions (see the instructions for line 39).

• The excess, if any, of Form 5329, line 34, over Form 5329, line 36.

You withdraw any income earned on the withdrawn contributions and include the earnings in gross income for the year that the withdrawn contributions are no longer treated as having been contributed.

Note: The IRS may waive this tax if you can show that any shortfall in the amount of withdrawals was due to reasonable error and you are taking appropriate steps to remedy the shortfall. If you believe you qualify for this relief, file Form 5329, pay the tax, and attach a letter of explanation. If the IRS waives the tax, we will send you a refund.

For more details, see Pub. 575.

Paperwork Reduction Act Notice. We ask for the information you provide 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, 2 hr., 5 min.; Learning about the law or the form, 33 min.; Preparing the form, 2 hr., 7 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 Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0011. Do not send the form to this address. Instead, see When and Where To File on page 1.