



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF
CHIEF COUNSEL

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Dear _____ :

I am responding to your letter to Senator Bill Nelson. He wrote to us on your behalf and asked us to respond directly to your question about the proper treatment of investment losses for traditional individual retirement accounts (IRAs) and Roth IRAs. You believe that the law should not treat losses in traditional and Roth IRAs equally because Roth contributions are after-tax and contributions to traditional IRAs are generally "pre-tax".

A traditional IRA under section 408 of the Internal Revenue Code (the Code) is a personal savings plan that gives tax advantages for setting aside money for retirement. Taxpayers can generally deduct contributions to a traditional IRA, subject to certain dollar limitations, and, generally, the law does not tax amounts in a traditional IRA (including earnings and gains) until distributed. Subject to the provisions of section 408(o) of the Code, taxpayers can also make designated non-deductible contributions to a traditional IRA. One's basis in a traditional IRA is the total amount of non-deductible contributions.

The Roth IRA under section 408A of the Code allows no deduction for contributions, but instead provides that if certain requirements are met, all earnings are tax free when withdrawn. One's basis in a Roth account is the total amount of contributions.

Taxpayers can only deduct investment losses in an IRA under certain limited circumstances. First, to declare a loss on any IRA account, traditional or Roth, the account must have "basis". An individual makes Roth contributions with after-tax dollars as are non-deductible traditional IRA contributions. These after-tax dollars constitute one's basis in an IRA account. Second, all traditional IRAs or Roth IRAs owned by an individual must be distributed and the amount distributed must be less than any unrecovered basis, *i.e.*, the amounts distributed must be less than the individual's aggregate basis in the accounts (either traditional or Roth).

We understand your position. However, the law treats investment losses in these two types of IRAs equally because only basis is taken into account in determining the amount of losses for both types of accounts.

I hope this information is helpful. Please note that it does not constitute a ruling.

See Rev. Proc. 2005-1, §2.04, 2005-1 IRB 7 (Jan. 3, 2005). If you have any questions, please contact _____, Identification Number _____, at (____) _____.

Sincerely,

Cathy V. Pastor
Acting Chief, Qualified Plans, Branch 1
(Employee Benefits)
(Tax Exempt & Government Entities)

cc: The Honorable Bill Nelson