

The true value of an amendment



Why is it important for a financial institution to send an Amendment to their IRA, HSA, or CESA account owners or beneficiaries?

In many cases, regulations or governmental agencies like the Internal Revenue Service can require amendments to be sent to account owners. The last time the IRS required an amendment for changes made to the IRA Form 5305 agreements was in 2002.

When the IRS requires an amendment, an institution must provide one within the prescribed time limit. But the IRS is not the only one that can mandate an amendment. For example, in the SECURE 2.0 Act, Congress stated that an amendment would be required by December 31, 2025. This date matches the date the IRS established recently and by which many in the industry expect the IRS to make updates to its IRA Form 5305 series.

Other regulatory events can also provide strong reasons to send amendments. For example, with the SECURE Act, subsequent IRS guidance states that an amendment must be provided if the institution wants to accept regular IRA contributions from a traditional owner after the owner reaches age 70½. Institutions that wait may not be able to accept those contributions in the meantime.



Are there other considerations financial institutions should make when deciding if or when to send an amendment to their account holders?

Regulations and agency requirements are not the only reasons for sending amendments. Below are a couple of additional considerations for providing account holders with an amendment.

Sending an amendment can protect financial institutions by:



Ensuring consistency in the contract, agreement, and disclosure of information

If a financial institution does not notify existing clients of a change, they will have different subsets of clients, each with contrasting rules that govern their accounts. The current rules governing IRAs, HSAs, and CESAs are applied equally, but account owners without updated agreements and disclosures may not have been informed of the changes.



Having the benefits of the most current content applied to all accounts

The changes to IRA, HSA, and CESA products are generally made to comply with new laws or legal interpretations that apply regardless of contract updates. However, some changes are designed to provide a better product for a financial institution's clients. For example, by including a provision in the traditional IRA disclosure statement that provides for the acceptance of a regular IRA contribution after age 70½, a custodian/trustee can demonstrate that their contract expressly permits such contributions.



What are the potential consequences of not sending an amendment?



The organization could be cited and fined for violating a regulation.

For example, if the IRS requires an amendment to be sent — if it is not sent, or if it is not sent in a timely manner after a change occurs to a provision needed to be disclosed in the disclosure statement, that institution may be in violation and subject to penalties.



The financial institution could also lose the increased protection and benefits of any new content designed to benefit the financial organization.

How can a financial institution license or obtain amendment content?

They should contact their Wolters Kluwer Sales Representative to obtain all their licensing options. If they need help getting the appropriate contact information, they can contact customer support at **800-552-9410 Extension 1123652**.



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