

## Banking Compliance

# A compliance health check on your ROTH IRA documents

## ROTH IRA UPDATES

(Custodial—includes Self-Direction & Trust)

This document provides a detailed summary of compliance changes to Wolters Kluwer ROTH Beneficiary IRA documents.

### Summary of Significant IRA Change From 2002-2010

In 2010, the IRS released Revenue Procedure 2010-48 in which it identified 17 statutory changes relating to the qualification of IRAs that became effective after the last mandatory amendments were announced in 2002.

Many of those changes are still very relevant today including changes under:

1. The Tax Increase Prevention and Reconciliation Act of 2005 (“TIPRA”);
2. Section 2 of the Heroes Earned Retirement Opportunities Act (“HERO Act”);
3. The Pension Protection Act of 2006 (“PPA”); and
4. The Heroes Earnings Assistance and Relief Act of 2008 (“HEART Act”)

Note that the IRS listed five separate changes under the PPA, four of which still have significant relevance. Similarly, the IRS listed three separate changes under the HEART ACT and all of those changes remain relevant today.

### Detailed changes from 2011 to today

#### 2011

##### Roth IRA Disclosure Statement

- Removed the paragraph under *Catch-Up Contributions* that discussed additional IRA contributions of up to \$3,000 per year for individuals participating in a 401(k) plan of a bankrupt employer since it is no longer applicable.
- Added the 2011 annual cost-of-living adjustment (COLA) limits.
- Removed the conversion eligibility requirements under *Traditional IRA to Roth IRA Conversions* since they are no longer applicable after 12/31/2009.
- Removed the *Rollover or Direct Rollover Eligibility* section under *Rollovers or Direct Rollovers from Eligible Retirement Plans* since the conversion eligibility requirements are no longer applicable after 12/31/2009.
- Removed information pertaining to the 12/31/2009 deadline under *Tax-Free Distributions to Charities*.
- Removed the *2009 RMDs Waived* section since it is no longer applicable.

## 2012

IRS Form **5305-RA, Roth Individual Retirement Custodial Account** and IRS Form **5305-R, Roth Individual Retirement Trust Account**:

- **Article IX, 9.13 - Spouse Beneficiary.** Updated this section to include information regarding the default election for a spouse beneficiary.

### Roth IRA Disclosure Statement

- Added the 2012 and 2013 annual cost-of-living adjustment (COLA) limits.

## 2013

### Roth IRA Disclosure Statement

- Added the 2014 annual cost-of-living adjustment (COLA) limits.

## 2014

### Roth IRA Disclosure Statement

- Added the following sentence to the *Beneficiary Designation* section under *Roth IRA Restrictions and Approval*: If there is no beneficiary designation on file at the time of your death, or if none of the beneficiaries on file are alive at the time of your death, your Roth IRA assets will be paid to your estate.
- Added the 2015 annual cost-of-living adjustment (COLA) limits.
- Updated the *Roth IRA-to-Roth IRA Rollovers* section to provide that a Roth IRA owner is limited to one rollover for all of his/her IRAs per 1-year (12-month) period (that is, only one nontaxable IRA-to-IRA rollover per taxpayer in a year – not one rollover for each IRA per year).
- Added the *MyRA-to-Roth IRA Rollovers and Transfers* section.

## 2015

### Roth IRA Disclosure Statement

- Added the 2016 annual cost-of-living adjustment (COLA) limits.

## 2016

### Roth IRA Disclosure Statement

- Added the 2017 annual cost-of-living adjustment (COLA) limits.
- The Protecting Americans from Tax Hikes (PATH) Act of 2015 made permanent the Qualified Charitable Distribution rule allowing a Roth IRA owner or beneficiary age 70½ or older to have up to \$100,000 per year distributed directly to a charitable organization. Under the *Roth IRA Distributions* section, 7. *Tax-Free Distributions to Charities* was retitled 5. *Qualified Charitable Distributions*. The corresponding text was updated.

## 2017

The IRS updated **Forms 5305-R, Roth Individual Retirement Trust Account** and **5305-RA, Roth Individual Retirement Custodial Account** as follows:

- **Article I.** Updated contribution limits to 2017 amounts.
- **Article II.** Updated the modified adjusted gross income (MAGI) limits for being able to make Roth IRA contributions
- **Article II.** Removed language that limited Roth IRA conversion contributions.
- **Article IX.** Added statement that the IRS has reviewed and approved Articles I through VIII.
- **General Instructions.** Updated to reflect the changes above, remove the identifying number instruction, and list IRS Pub. 590-A and Pub. 590-B as additional sources of information.

### Roth IRA Disclosure Statement

- Added the 2018 annual cost-of-living adjustment (COLA) limits.
- Added statements that the IRS has reviewed and approved Articles I through VIII but not Article IX of the 5305-R or 5305-RA, as appropriate.
- Updated the Disaster Tax Relief section to summarize the requirements of the Disaster Tax Relief and Airport and Airway Extension Act of 2017.

## 2018 (January; Tax Cuts and Jobs Act)

### Roth IRA Disclosure Statement

- Made several changes under the *Movement of Assets Between Traditional and Roth IRAs* section:
  - Amended the *Traditional IRA and Roth IRA Recharacterizations* subsection to remove reference to cancelling a conversion from a traditional IRA to a Roth IRA through recharacterization;
  - Removed the reference regarding rollovers and direct rollovers from eligible retirement plans to Roth IRAs, and recharacterization of the same; and
  - Removed the *Traditional IRA to Roth IRA Reconversions* subsection.
- Added language to the *Indirect Rollover and Withholding* subsection within the *Movement of Other Assets to Roth IRAs* section to address the extended deadline to roll over plan loan offset amounts.
- Amended the *Compensation for Eligibility* subsection, under the *Roth IRA Eligibility and Contributions* section, to remove reference to including taxable alimony, or separate maintenance payments received under a divorce decree or other separate agreement, in compensation.
- Amended the *Contribution Deadline* subsection, under the *Roth IRA Eligibility and Contributions* section, so that it now references service in a hazardous duty area as an example of when the contribution deadline may be extended.

## 2018 (October; 2019 COLA updates)

### Roth IRA Disclosure Statement

- Added the 2019 annual cost-of-living adjustment (COLA) limits.
- Amended the *Waiver of the 60-Day Period* subsection under the *Moving Assets To and From Roth IRAs* section by adding language explaining the self-certification procedure to claim eligibility for waiving the 60-day rollover period
- Made several changes under the *Movement of Other Assets to Roth IRAs* section:
  - Amended the *Indirect Rollover and Withholding* subsection to address the return of an improper tax levy; and
  - Removed the *Qualified Settlement Income* and the *Rollovers Due to Airline Carrier Bankruptcy* subsections as they are no longer relevant.
- Amended the *Disaster Tax Relief* section to add reference to IRS Publication 976, *Disaster Relief*, and make other minor clarifications.

## 2019

### Roth IRA Disclosure Statement

- Added the 2020 annual cost-of-living adjustment (COLA) limits.

## 2020 (SECURE Act and 2021 COLA updates)

### Roth IRA Disclosure Statement

- Amended the *State Law* subsection in the *Roth IRA Restrictions and Approval* section; updated the list of state laws that may affect an IRA.
- Amended the *Cash Contributions* subsection in the *Roth IRA Restrictions and Approval* section; removed “reconversions” from the list of in-kind contributions that may be accepted (trust and self-directed versions only).
- Amended a number of subsections in the *Roth IRA Eligibility and Contributions* section
  - Amended the *Regular or Annual Roth IRA Contributions* subsection by clarifying that a direct tax refund contribution is subject to the standard annual contribution limits.
  - Updated the *Limitations on Contributions* subsection to reflect the current years’ limits.

- Updated the Maximum Contributions Limits subsection to reflect the current years' limits.
- Amended the Contribution Deadline subsection; updated text to reflect the concept of postponed contributions
- Amended a number of subsections in the Moving Assets To and From Roth IRAs section
  - Removed the section MyRA to Roth IRA Rollovers and Transfers
  - Amended the Waiver of the 60-Day Period subsection by changing “waive” to “extend” and “waiver” to “extension” throughout the subsection, including in the subsection heading. Amended text to reflect the concept of a late rollover.
  - Renamed the Qualified Reservist Contributions subsection as Repayment of a Qualified Reservist Distribution
  - Added a subsection titled Repayment of a Qualified Birth or Adoption Distribution to address new rules and permit such a repayment
- Amended the Rollovers or Direct Rollovers from Eligible Retirement Plans subsection in the Movement of Other Assets to Roth IRAs section; changed “certain plan loan offsets” to “qualified plan loan offsets” and removed text related to waiver of the 60-day rollover period
- Amended the Qualified Charitable Distributions subsection in the Roth IRA Distributions section; added text related to Qualified Charitable Distributions and tracking deductible contributions after age 70½.
- Renamed the RMDs section to RMDs After Age 72; updated age 70½ to age 72
- Amended the section RMDs For Your Beneficiaries; the entire section has been revised to address new rules for beneficiaries of an IRA owner who dies in the year 2020 or later.
- Amended the Early-Distribution Penalty Tax subsection in the Federal Tax Penalties and IRS Form 5329 section; added “qualified birth or adoption distributions” to the list of early distribution 10-percent penalty tax exceptions.
- Renamed Disaster Tax Relief section as Disaster Tax Relief and Repayment of a Qualified Disaster Distribution; removed the sentence saying disaster distributions may be subject to a lifetime aggregate; removed reference to IRS Publication 976; and updated the URL where disaster relief information can be found on the IRS website.

## 2021 (2022 COLA and IRS Publication 590-B Guidance Updates)

### Roth IRA Disclosure Statement

- Amended the *Roth IRA Eligibility and Contributions* section; updated the *Limitations on Contributions* and the *Maximum Contribution Limits* subsections to reflect the current year's limits.
- Amended two parts of the *Eligible Designated Beneficiary* subsection of the *RMDs For Your Beneficiaries* section:
  - Amended part 3.b., *Eligible Designated Beneficiary Who is Your Minor Child*, to address new IRA rule for eligible designated beneficiaries who are surviving minor children of the Roth IRA account owner, that they must remove all assets from the Roth IRA by the tenth anniversary of the date they attain the age of majority.
  - Amended part 3.c., *Eligible Designated Beneficiary (Other than a Surviving Spouse or Minor Child)*; added the requirement that qualifying trusts choosing the single life expectancy option must use the age of the oldest trust beneficiary when calculating the RMD.