ascend 2019

Employer Options: SEP and SIMPLE IRA Plans

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Learning Objectives

At the completion of this course you will be able to

- compare the benefits and advantages of SEP and SIMPLE IRA plans for small employers,
- identify the types of employers eligible to establish SEP and SIMPLE IRA plans,
- describe the plan document choices available,
- explain employee eligibility requirements, and
- understand contribution limits.

Icon Legend

Individual Exercise

Group Exercise

Group Discussion

Example

Job Aid

Additional Information

Introduction

Many small business owners find that offering and maintaining a retirement plan is a challenge. Small business owners often are so focused on the growth and survival of the business that they don't think about saving for retirement. And at some point in their business development, many small business owners come to understand that they need to offer a retirement plan to be competitive in attracting employees.

Some viable retirement plan and retirement saving options for small employers are simplified employee pension (SEP) plans and savings incentive match plan for employees of small employers (SIMPLE) IRA plans. These options tend to be simpler to operate and maintain than other employer-sponsored retirement plans, like profit sharing and 401(k) plans, and therefore, are more attractive to small employers.

SEP Plans

A SEP plan is an IRA-based plan similar in concept to a profit sharing plan. It allows an employer to make discretionary contributions to an employee's Traditional IRA. Once contributions are in the IRA, they take on the characteristics of Traditional IRA assets.

SEP plans often appeal to small business owners—including owner-only business owners—who want to provide retirement benefits without spending too much time, effort, and money administrating a retirement plan.

SIMPLE IRA Plans

SIMPLE IRA plans are designed for small businesses (generally those with 100 or fewer employees) and employers who are seeking a salary deferral feature, plan simplicity, and cost-effectiveness. In exchange for this simplicity, the employer must commit to making modest annual contributions. Unlike qualified retirement plans (e.g., 401(k) plans) in which the assets are held in a trust for the benefit of plan participants, SIMPLE IRA plan employer contributions and employee deferrals are made to each employee's own SIMPLE IRA.

Benefits of SEPs and SIMPLEs	
SEP Plans	**SIMPLE IRA Plans**
Employer Benefits	
Less expensive to administer	
Simple to maintain	
No IRS or DOL reporting	
No nondiscrimination testing	
Discretionary contributions	Mandatory contributions
Tax deduction for contributions	
Owners eligible to receive contributions	
Possible tax credit for establishing the plan	
No responsibility for managing investments	
No limit on number of enrolled employees	100 employee limitation
Employee Benefits	
Full control of investments	
Contributions are made pretax	
Have immediate access to assets	
Contributions are in a Traditional IRA	Contributions are in a SIMPLE IRA
Contributions made entirely by employer	Allowed to make additional salary deferrals
	Possible tax credit for contributions
Financial Organization Benefits	
Bring in potentially large, long-term deposits	
Build relationships with employers	
Build long-term relationships with employees	
Full-service provider	

SEP Plans

Employer Eligibility

Although a SEP plan typically is established by smaller employers, these plans are available to all types of businesses, including sole proprietorships, partnerships, corporations (S or C corporations), state and local governments, any political subdivisions, and organizations exempt from tax, such as credit unions, churches, schools, and rural power cooperatives.

Controlled Groups

If an individual (or group of individuals) owns or controls more than one business entity, a controlled group of businesses may exist. Each business entity owned or controlled by an individual is deemed to be a member of the controlled group. As a result, an employer establishing a SEP plan may be required to cover all eligible employees of all business entities that the employer owns or controls.

Establishing a Plan

To establish a SEP plan, an employer must sign a plan document. Plan document options include the following.

- Form 5305-SEP, *Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement*
- A prototype
- An individually designed SEP plan

The plan agreement outlines the SEP plan eligibility requirements, contribution rate, and allocation method.

The employer is responsible for establishing and amending the plan as often as required.

Each eligible employee is required to maintain a Traditional IRA to receive SEP plan contributions.

- This can be a new Traditional IRA or an existing IRA.
- Some financial organizations may require the individual to establish a Traditional IRA dedicated to receiving and holding only SEP plan contributions.
- If even one eligible employee does not have a Traditional IRA to accept the SEP plan contributions, the SEP plan may be disqualified.
- The employer is authorized to establish a Traditional IRA in the employee's name for the purpose of receiving the SEP plan contributions.

Employee Eligibility

The employer may choose to limit eligibility to those employees who meet certain minimum eligibility requirements. Employers may choose to be less restrictive than these minimum eligibility requirements but cannot impose more restrictive requirements for SEP plan eligibility.

If a contribution is made, the employer must make SEP plan contributions for all employees who meet the eligibility requirements. This includes employees who died, retired, or were terminated during the plan year.

<table>
<tr><th colspan="3">SEP Plan Eligibility Requirements</th></tr>
<tr><th></th><th colspan="2">Ascensus or IRS Agreement</th></tr>
<tr><td>Minimum Age</td><td colspan="2">An employer may require employees to attain a certain age by year end, up to age 21, before they are eligible to participate in the SEP plan. Note that contributions may be made for individuals over age 70½.</td></tr>
<tr><td>Years of Service</td><td colspan="2">An employer may require an employee to work (for any period of time, however short) during three out of the immediately preceding five years.</td></tr>
<tr><td>Minimum Compensation</td><td colspan="2">Employers may exclude from coverage employees earning less than $600 (for 2019) in compensation for the year.</td></tr>
<tr><td>Other Excludable Employees</td><td colspan="2">Employers may exclude from coverage
• employees who are covered by a collective bargaining agreement (e.g., union employees) where retirement benefits were part of the bargaining agreement, and
• nonresident aliens with no U.S. income.</td></tr>
<tr><td rowspan="3">Leased Employee</td><td colspan="2">To determine if leased employees are considered eligible employees for SEP plan purposes, the employer must evaluate the following question.
Does the leasing organization cover the leased employees under a safe harbor plan?</td></tr>
<tr><td>Yes</td><td>No</td></tr>
<tr><td>The employer may ignore the leased employees for retirement plan purposes if certain other factors are met.</td><td>The employer may have to treat the leased employees as "common-law" employees for retirement plan purposes.</td></tr>
</table>

Contributions

Employer Contributions

The employer sets the contribution rate, which is the percentage by which the employee's compensation is multiplied to determine the SEP plan contribution.

Under a SEP plan, the employer contributes to the Traditional IRAs of its employees.

- If a self-employed individual is establishing the SEP plan, he contributes to his Traditional IRA and to the Traditional IRAs of his employees, if any.
- SEP plan contributions cannot be made to a Roth IRA.
    - If a SEP plan contribution is mistakenly made to a Roth IRA, it cannot be recharacterized to a Traditional IRA.
    - Once SEP plan contributions are deposited into a Traditional IRA, they are eligible to be converted to a Roth IRA.

Three types of SEP plan calculation methods are available.

1. Pro rata allocation
2. Flat dollar*
3. Social Security integration*

* SEP plans established using the IRS model SEP document may only use the pro rata allocation method. Prototype SEP plan documents may allow for other allocation methods.

Pro Rata Method

Catco Media offers a SEP plan for its employees. The contribution rate for the plan year is 10%. To calculate the year's SEP plan contributions, each eligible employee's compensation is multiplied by 10%.

	Compensation		Percentage		SEP Contribution
James	$74,000	x	10%	=	$7,400
Kara	$52,750	x	10%	=	$5,275
Alex	$31,500	x	10%	=	$3,150

While each employee is receiving a different amount, the contribution is the same percentage of each employee's salary.

The SEP plan rules place the following restrictions on the amount of an employee's contribution.

- The maximum annual contribution rate is the lesser of 25 percent of the employee's compensation or $56,000 for 2019.
- Only the first $280,000 (for 2019) of an employee's compensation may be used to determine the SEP plan contribution. This is the defined compensation cap.
- The contribution rate generally must be the same for all eligible employees.
- The employer is allowed to change the contribution rate each year.

SEP plan contributions are reported separately from regular Traditional IRA contributions.

Employers who established salary reduction SEP (SAR-SEP) plans before December 31, 1996, may continue to maintain these plans.

The IRS requires the employer to notify each employee of his contribution amount each year.

A form such as Ascensus' SEP Plan *Employer Annual Contribution* form can be used by the employer to notify employees of the SEP plan contribution amount. The IRS does not have a form for this purpose.

The contribution deadline is the employer's tax return due date, **including** extensions. Note that this is different from regular IRA contributions for which the deadline does **not** include extensions.

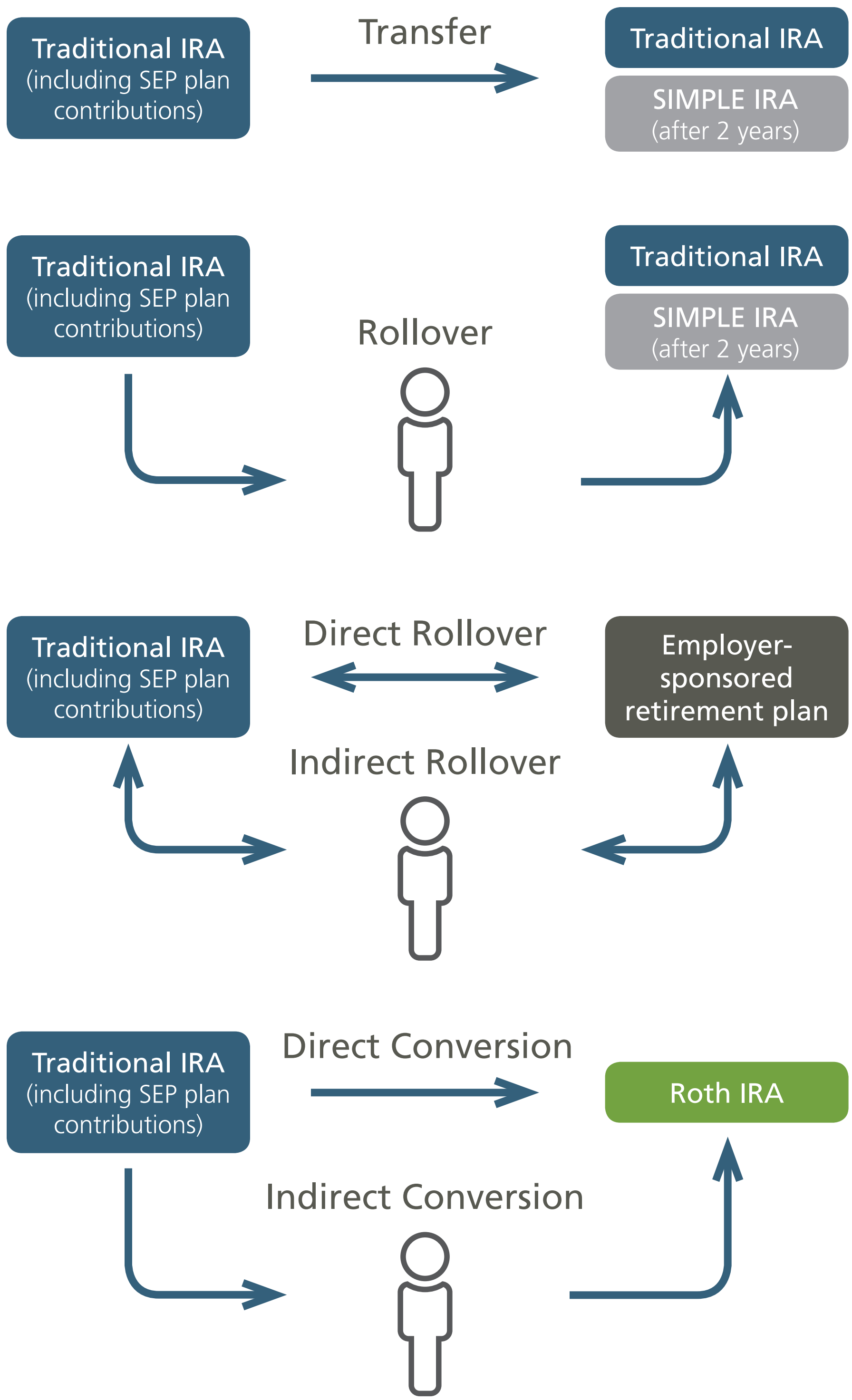
Employee Contributions

An employee does not make SEP plan contributions, unless he is the owner of the business.

An employee receiving SEP plan contributions also may make regular IRA contributions under the normal contribution rules, if eligible.

Portability

Once a SEP plan contribution is in the IRA, it becomes subject to the same general rules as Traditional IRAs. A financial organization should be aware of all of the underlying Traditional IRA rules.



Distributions

Once a SEP plan contribution is in the IRA, it becomes subject to the same general rules as Traditional IRAs. A financial organization should be aware of all of the underlying Traditional IRA rules.

- Required minimum distributions (RMDs), transfers, rollovers, and other transactions involving IRAs containing SEP plan contributions generally are handled in the same manner as Traditional IRA assets.
- A permitted SEP plan contribution (a SEP plan contribution that is not an excess contribution) cannot be treated as a deemed excess and removed with net income attributable before the early withdrawal deadline.
- Regular Traditional IRA distribution codes and forms should be used when the IRA owner withdraws assets from a Traditional IRA to which SEP plan contributions have been made, even if it is a dedicated SEP plan account.

SEP plan participants who continue employment after attaining age 70½ continue to receive employer contributions, even though they also are required to take RMDs from the IRA.

Reporting

The Employee Retirement Income Security Act (ERISA) requirements for filing annual plan reports, such as the Form 5500 series, generally do not apply to SEP plans. But other reporting requirements must be followed.

As described earlier, SEP plan contributions are made to Traditional IRAs (though some financial organizations call these "SEP IRAs"). Once in the IRA, SEP plan assets become subject to the following Traditional IRA reporting requirements.

FMV Statement

- Must provide to IRA owners or beneficiaries
- Due by January 31 each year
- Must show IRA's fair market value (FMV) on December 31 of prior year
- No particular format

RMD Statement

- Must provide to IRA owners age 70½ and older
- Due by January 31 each year
- Use same rules as other Traditional IRAs

IRS Form 1099-R

- Must provide to IRA owners or beneficiaries and IRS
- Due to IRA owners January 31 each year
- Due to IRS February 28 (paper) or March 31 (electronic) each year
- Use same rules as other Traditional IRAs

Account Statement

- Must provide to IRA owners or beneficiaries
- Due by May 31 each year
- Must include account balance as of close of prior year
- Must include a summary of account activity for prior year
- No particular format

IRS Form 5498

SEP plan contributions are reported in Box 8 of Form 5498, *IRA Contribution Information*, for the year ***in which*** the SEP plan contributions were deposited, regardless of the year for which the employer takes the tax deduction. Form 5498 is due to the IRS by May 31 each year. A copy of Form 5498 also may be used to meet the account statement requirement.

2019 IRS Form 5498

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TRUSTEE'S or ISSUER'S name, street address, city or town, state or province, country, and ZIP or foreign postal code	1 IRA contributions (other than amounts in boxes 2–4, 8–10, 13a, and 14a) $	OMB No. 1545-0747 **2019** Form **5498**	**IRA Contribution Information**
	2 Rollover contributions $		
TRUSTEE'S or ISSUER'S TIN / PARTICIPANT'S TIN	3 Roth IRA conversion amount $	4 Recharacterized contributions $	**Copy A For Internal Revenue Service Center File with Form 1096.**
	5 FMV of account $	6 Life insurance cost included in box 1 $	
PARTICIPANT'S name	7 IRA ☐ SEP ☐ SIMPLE ☐ Roth IRA ☐		For Privacy Act and Paperwork Reduction Act Notice, see the **2019 General Instructions for Certain Information Returns.**
	8 SEP contributions $	9 SIMPLE contributions $	
Street address (including apt. no.)	10 Roth IRA contributions $	11 Check if RMD for 2020 ☐	
City or town, state or province, country, and ZIP or foreign postal code	**12a** RMD date	**12b** RMD amount $	
	13a Postponed/late contrib. $	**13b** Year / **13c** Code	
	14a Repayments $	**14b** Code	
Account number (see instructions)	**15a** FMV of certain specified assets $	**15b** Code(s)	

Form **5498** Cat. No. 50010C www.irs.gov/Form5498 Department of the Treasury - Internal Revenue Service

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SIMPLE IRA Plans

Employer Eligibility

All types of business entities may establish a SIMPLE IRA plan as long as they meet the exclusive plan rule and employee limit.

Controlled Groups

If an individual owns or controls more than one business entity, a controlled group of businesses may exist. Each business entity owned or controlled by an individual is deemed to be a member of the controlled group. As a result, an employer establishing a SIMPLE IRA plan may be required to cover all eligible employees of all business entities that the employer owns or controls.

Employer Restrictions

Certain employer restrictions are unique to SIMPLE IRA plans.

Exclusive Plan Rule

An employer establishing or maintaining a SIMPLE IRA plan generally may not maintain another retirement plan in which employees currently accrue benefits. There are two exceptions to this rule. First, an employer may maintain a separate plan for union employees if those employees are excluded from the SIMPLE IRA plan. Second, in most cases of a business merger or acquisition, the employer may maintain both the SIMPLE IRA plan and another plan for the year the transaction takes place and for the following two calendar years.

Limitation on Number of Employees

Only employers that had no more than 100 employees who received at least $5,000 of compensation from the employer for the preceding calendar year may establish a SIMPLE IRA plan (Internal Revenue Code Section (IRC Sec.) 408(p)(2)(C)(i)).

If an employer exceeds the 100-employee limitation after establishing a SIMPLE IRA plan, the employer generally is entitled to a two-year grace period during which time it may continue to fund the plan (IRC Sec. 408(p)(2)(C)(i)(II)). Employer eligibility is based on the preceding year's employee count. The first year of the two-year period begins the year following the last year the employer was an eligible employer.

Establishment Deadline

An employer may establish a SIMPLE IRA plan any time between January 1 and October 1 for the current year. This rule is intended to prevent employers from establishing a plan late in the year to maximize their own contributions while restricting employees from deferring. An employer may adopt a SIMPLE IRA plan between October 1 and December 31 if the plan is not effective until January 1 of the following year. Businesses established after October 1 of the year are not limited by this restriction.

Must be Maintained on a Calendar-Year Basis

Even if an employer's tax year does not follow the calendar year, the SIMPLE IRA plan must be maintained on a calendar-year basis. This requirement simplifies eligibility and compensation determinations.

Changes Must Be Made Prospectively

Once the summary description has been communicated to the employee, no changes or amendments may be made until the following calendar year.

Establishing a Plan

To establish a SIMPLE IRA plan, an employer must sign a plan document. Plan document options include the following.

- Form 5305-SIMPLE, *Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—for Use With a Designated Financial Institution*
  - Employer must designate a single financial organization to receive initial SIMPLE IRA contributions.
  - Form 5305-SIMPLE simplifies employer administration.
  - Participants must be allowed to transfer SIMPLE IRA assets from at least one investment without fees or penalties.

  DFIs may limit participants' options to transfer without fees or penalties according to the following guidelines.

  - DFIs need only provide one investment alternative from which employees may elect to transfer out without cost or penalty.
  - Employees may be limited to a 60-day period, generally before the beginning of the plan year, in which they can elect to have either all or none of their contributions for the coming plan year transferred without fee or penalty to another financial organization. If employees have not made this election, appropriate fees and penalties may be charged for transfers.
  - Transfers may be limited to one per month, and other maintenance fees may be charged to either the employee or the employer.

- 5304-SIMPLE, *Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—Not for Use With a Designated Financial Institution*
  - Employees can choose where SIMPLE IRA contributions are deposited.
  - Financial organizations have the flexibility to charge fees for movement of SIMPLE IRA assets.
  - Employers who use Form 5304-SIMPLE may find it cumbersome to make deposits at multiple financial organizations.

- Prototype
  - Financial organizations may have the flexibility of acting as DFI for some employers but not for others.
  - The document is submitted with IRS Form 5306-A, *Application for Approval of Prototype Simplified Employee Pension (SEP) or Savings Incentive Match Plan for Employees of Small Employers (SIMPLE IRA Plan)*.
  - An IRS approval letter may be issued in the financial organization's name.

Each eligible employee is required to maintain a SIMPLE IRA to receive the contributions.

- This cannot be a Traditional or Roth IRA.
- The following documents can be used to establish the SIMPLE IRA for the employee.
  - IRS Form 5305-S, *SIMPLE Individual Retirement Trust Account*
  - IRS Form 5305-SA, *SIMPLE Individual Retirement Custodial Account*
  - Prototype SIMPLE IRA document
- The employer is authorized to establish a SIMPLE IRA in the employee's name for the purpose of receiving the SIMPLE IRA contributions.

Employee Eligibility

Employers may set some eligibility requirements for participation in the plan.

<table>
<tr><th colspan="3">SIMPLE IRA Plan Eligibility Requirements</th></tr>
<tr><th></th><th colspan="2">IRS Agreement</th></tr>
<tr><td>Years of Service</td><td colspan="2">The most restrictive requirements that an employer may choose is that employees must have earned at least $5,000 in compensation from their employer during any two preceding years and are reasonably expected to receive at least $5,000 in compensation in the current year</td></tr>
<tr><td>Other Excludable Employees</td><td colspan="2">Employers may exclude from coverage
• employees who are covered by a collective bargaining agreement (e.g., union employees) where retirement benefits were part of the bargaining agreement, and
• nonresident aliens with no U.S. income.</td></tr>
<tr><td rowspan="3">Leased Employee</td><td colspan="2">To determine if leased employees are considered eligible employees for SIMPLE IRA plan purposes, the employer must evaluate the following question.
Does the leasing organization cover the leased employees under a safe harbor plan?</td></tr>
<tr><td>Yes</td><td>No</td></tr>
<tr><td>The employer may ignore the leased employees for retirement plan purposes if certain other factors are met.</td><td>The employer may have to treat the leased employees as "common-law" employees for retirement plan purposes.</td></tr>
</table>

Contributions

Employer Contributions

SIMPLE IRA plans are not subject to nondiscrimination testing and top-heavy rules. Employers, however, are required to contribute to employees' SIMPLE IRAs using one of the following contribution formulas.

Three Percent Match

Employers may match employee deferrals dollar-for-dollar up to three percent of an employee's compensation (compensation includes the employee's deferrals).

Employers may elect to match a percentage lower than three percent, but not lower than one percent. This particular matching option is allowed only for two years in any five-year period. The five-year period includes the current year and the previous four years. If any one of the years in the five-year period is a year in which the SIMPLE IRA plan was not established, the employer shall be treated as having satisfied the three percent contribution requirement for that year.

Two Percent Contribution

Employers may make a two percent nonelective contribution to all eligible employees (even those who do not defer) who have at least $5,000 of compensation from the employer for the year.

Unlike the three percent match, the two percent nonelective contribution is subject to an IRS-defined compensation cap, which is $280,000 for 2019.

Determining the Contribution

If the Overlook Company has 25 employees and all 25 employees are eligible for the Overlook SIMPLE IRA plan, but only 10 employees choose to defer, the 3% match may be more cost effective because the Overlook Company has to provide a 3% match to only those 10 employees who are deferring. But if the Overlook Company decided to make a 2% nonelective contribution, it would need to make a 2% contribution to all 25 eligible employees—even if some of the employees chose not to defer into the SIMPLE IRA plan.

Employee Contributions

One of the advantages of SIMPLE IRA plans is that the burden of saving for retirement is shifted primarily to the employee, although the employer must make a contribution each year.

Employee Deferrals

For 2019, employees may defer up to $13,000, plus an additional $3,000 catch-up contribution, if eligible. Employees may elect to defer either a given percentage of income or a specific dollar amount up to 100 percent of compensation, as long as they do not exceed the maximum deferral amount. Employers may not limit the contribution percentage or dollar amount except to the extent needed to comply with the annual limit ($13,000 for 2019). The annual limit is subject to cost-of-living adjustments in increments of $500.

NOTE: *Even though income tax withholding does not apply to an employee's deferrals, deferrals must be included with other wages when determining Federal Insurance Contribution Act and Federal Unemployment Tax Act payments.*

Employee Catch-Up Deferrals

SIMPLE IRA plan participants who have attained age 50 before the close of the plan year may make elective deferrals above the normal SIMPLE IRA deferral limits (i.e., catch-up contributions) up to the applicable annual limit, which is $3,000 for 2019. (Employers that wish to prohibit catch-up contributions must use a prototype document.) The annual catch-up contribution limit is subject to cost-of-living adjustments.

Catch-up contributions do not count toward any other plan contribution limits (e.g., deferral limit, employer's deduction limit, or annual additions limit).

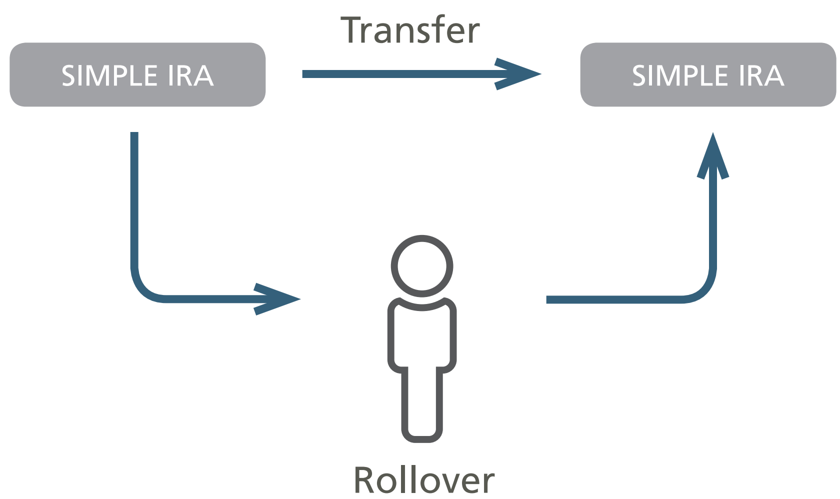
Contribution Deadline

The Department of Labor regulations provide a safe harbor time frame for small employers to make deferral deposits. Deferrals made under small plans—plans with fewer than 100 participants at the beginning of the plan year—would be considered timely deposited if the deferrals are deposited to the SIMPLE IRAs within seven business days after they are withheld by the employer. Eligible small plans that do not use the seven-business-day safe harbor must make deposits as soon as possible, but no later than 30 business days following the month of deferral.

The deadline for contributing employer matching and nonelective contributions is the employer's tax return due date, including extensions.

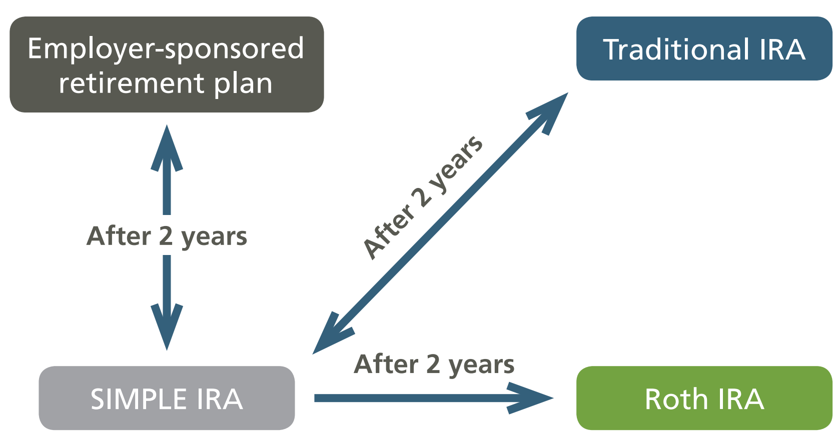
Portability

SIMPLE IRA assets generally may be transferred or rolled over to other SIMPLE IRAs at any time.



SIMPLE IRA assets moved to any other account must satisfy the two-year waiting period, which starts with the first deposit date.

- SIMPLE IRA assets can be transferred or rolled over to a Traditional IRA.
- Traditional IRA assets can be transferred or rolled over to a SIMPLE IRA.
- SIMPLE IRA assets can be converted to a Roth IRA.
- SIMPLE IRA assets can be rolled over to an employer-sponsored retirement plan.
- Eligible employer-sponsored retirement plan assets can be rolled over to a SIMPLE IRA.



Distributions

Most Traditional IRA distribution rules apply to SIMPLE IRAs. For example, RMDs must be taken from SIMPLE IRAs. SIMPLE IRA assets are fully vested and may be distributed at any time, and SIMPLE IRA assets are taxed as ordinary income.

But unlike Traditional IRA distributions, SIMPLE IRA distributions are subject to a 25 percent early distribution penalty tax if a distribution is taken within the first two year years, beginning on the date the employee first participates in the SIMPLE IRA plan (the date that the first contribution is deposited to her SIMPLE IRA).

The Form 1099-R distribution code S, *Early distribution from a SIMPLE IRA in first 2 years, no known exception (under age 59½)*, should be entered in Box 7 when an individual takes a distribution in the first two years if the individual is under age 59½ and no other penalty tax exceptions are known to apply.

This penalty tax will not apply if the employee is age 59½ or older or can claim another early distribution penalty tax exception under IRC Sec. 72(t). If an employee under age 59½ satisfies the two-year requirement, the 10 percent early distribution penalty tax applies unless the IRA owner meets a penalty tax exception.

Reporting

The ERISA requirement for filing annual plan reports, such as the Form 5500 series, does not apply to SIMPLE IRA plans. But financial organizations must follow other reporting requirements.

FMV Statement

- Must provide to SIMPLE IRA owners or beneficiaries
- Due by January 31 each year
- Must include SIMPLE IRA's value on December 31 of prior year
- No particular format

RMD Statement

- Must provide to IRA owners age 70½ and older
- Due by January 31 each year
- Use same rules as other Traditional IRAs

Account Statement

- Must provide to SIMPLE IRA owners or beneficiaries
- Due by January 31 each year
- Must include account balance as of close of prior year
- Must include a summary of account activity for prior year
- No particular format

IRS Form 1099-R

- Must provide to IRA owners or beneficiaries and IRS
- Due to IRA owners by January 31 each year
- Due to IRS by February 28 (paper) or March 31 (electronic) each year

IRS Form 5498

- Must submit to the IRS for each SIMPLE IRA owner or beneficiary
- Due by May 31 each year
- SIMPLE IRA employee deferrals and employer contributions shown in Box 9 for the year ***in which*** deposited, regardless of the tax year for which the employer takes the tax deduction.

2019 IRS Form 5498

2828 ☐ VOID ☐ CORRECTED

TRUSTEE'S or ISSUER'S name, street address, city or town, state or province, country, and ZIP or foreign postal code	**1** IRA contributions (other than amounts in boxes 2–4, 8–10, 13a, and 14a) $	OMB No. 1545-0747 **2019** Form **5498**	**IRA Contribution Information**
	2 Rollover contributions $		
	3 Roth IRA conversion amount $	**4** Recharacterized contributions $	**Copy A** **For Internal Revenue Service Center** **File with Form 1096.**
TRUSTEE'S or ISSUER'S TIN / PARTICIPANT'S TIN	**5** FMV of account $	**6** Life insurance cost included in box 1 $	
PARTICIPANT'S name	**7** IRA ☐ SEP ☐	SIMPLE ☐ Roth IRA ☐	For Privacy Act and Paperwork Reduction Act Notice, see the **2019 General Instructions for Certain Information Returns.**
	8 SEP contributions $	**9** SIMPLE contributions $	
Street address (including apt. no.)	**10** Roth IRA contributions $	**11** Check if RMD for 2020 ☐	
	12a RMD date	**12b** RMD amount $	
City or town, state or province, country, and ZIP or foreign postal code	**13a** Postponed/late contrib. $	**13b** Year / **13c** Code	
	14a Repayments $	**14b** Code	
Account number (see instructions)	**15a** FMV of certain specified assets $	**15b** Code(s)	

Form **5498** Cat. No. 50010C www.irs.gov/Form5498 Department of the Treasury - Internal Revenue Service

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Deferral Notice

Immediately before the employee's 60-day deferral election period, the employer must notify each employee of the opportunity to begin deferrals or to modify a prior deferral election. This notification, often called a "deferral notice," must include the summary description for the plan (described below). It also must disclose the employee's right to choose a financial organization if the employer is not using a DFI.

The 60-day deferral election period generally is the 60 days immediately before the beginning of the new plan year (i.e., November 2 through December 31 of the preceding year).

If the employer fails to provide the required disclosures, the employer will be subject to a penalty of $50 per day until the notices are provided (Notice 98-4, G-3).

Summary Description

Both the employer operating the SIMPLE IRA plan and the financial organization holding the SIMPLE IRA assets play a role in providing a summary description to employees. Financial organizations generally must provide to the employer sponsoring the SIMPLE IRA plan a summary description each year. In turn, employers must provide the annual summary description to each employee along with the deferral notice mentioned above. The summary description must contain the following information.

- Name and address of the employer and financial organization
- Plan eligibility requirements
- Plan benefits, including contribution allocation method
- Timing and method of making employee elections
- Procedures for and effects of withdrawals (including rollovers)

As part of the requirement to disclose plan benefits, the employer must indicate the employer contribution amount for the year (three percent matching contribution, one percent matching contribution, or two percent nonelective contribution). By clearly disclosing the employer contribution for each year in the summary description, this requirement is met.

If using the IRS model Forms 5305-SIMPLE or 5304-SIMPLE, providing a current copy of the model form plus the instructions satisfies the summary description requirement as long as the procedures for and effects of withdrawals, as well as the financial organization's name, are provided.

Deadline

The financial organization must provide the summary description to the employer "early enough for the employer to meet its notification obligation" to the employees (Notice 98-4).

The employer must provide the summary description to each employee before the employee's 60-day election period (generally November 2 through December 31). For the employer to meet its deadline, the financial organization should provide the summary description to the employer before November 1, so on or before October 31.

One exception is that for the year in which an employee first becomes eligible to make salary deferral contributions into a SIMPLE IRA plan, the 60-day election period may begin as early as 60 days before the date on which the employee becomes eligible or begin as late as the date the employee becomes eligible (Notice 98-4). Once the employee becomes eligible, however, he must be allowed to begin deferrals regardless of whether the 60-day election period has expired.

Summary Description Deadline

The robotechnology firm, Osbourne and Parker, establishes a SIMPLE IRA plan effective July 1, 2019. The 60-day election period for all eligible employees at the firm may begin no earlier than May 2, 2019 (60 days before the date employees become eligible), and must begin no later than July 1, 2019 (the date the employees become eligible). Because the plan is effective July 1, 2019, each eligible employee becomes eligible to make contributions into the SIMPLE IRA plan on July 1, even if the 60-day election period has not expired by July 1. Note, however, that because SIMPLE IRA plans must operate on a calendar year, the firm must again give a summary description with the deferral election notice before November 2, 2019, for the 2020 plan year.

Penalty

The IRS may fine a financial organization $50 per day for failing to provide a summary description to the employer, unless the financial organization can show that the failure is due to reasonable cause (Notice 98-4, H-1).

Notice 98-4 indicates that reasonable cause is deemed satisfied if the employee for whom the SIMPLE IRA is established receives a summary description from the employer or from another financial organization. The notice also suggests that reasonable cause is deemed satisfied if an employer working with a DFI provides all eligible employees with all of the summary description information except for the procedures for withdrawal, and the financial organization holding the employees' SIMPLE IRAs provides its name, address, and the procedures for withdrawal.

Financial organizations should create a written agreement with employers describing how the summary description will be distributed so that it can show proof of reasonable cause if asked by the IRS.

For example, a financial organization may provide the employer with its name, address, and withdrawal procedures, and ask the employer to sign an agreement stating that it will provide the complete summary description to its eligible employees each year. Or a financial organization may ask the employer to sign an agreement stating that the financial organization will provide its name, address, and withdrawal procedures to its SIMPLE IRA owners directly, and the employer will provide the remaining summary description information to its employees each year.

These types of agreements may resolve any logistical problems that either the financial organization or employer may encounter when gathering all of the summary description information.

Key Features of Small Employer Retirement Plans		
	SEP Plan	**SIMPLE IRA Plan**
Employer Eligibility	Any employer.	Any employer with 100 or fewer employees who earned $5,000 or more in preceding calendar year, and does not currently maintain another retirement plan.
Plan Establishment	May use IRS Form 5305-SEP, prototype, or individually designed document to set up the plan. Employees establish Traditional IRA with financial organization to receive contributions.	May use IRS Forms 5304-SIMPLE or 5305-SIMPLE, a prototype plan, or individually designed document to set up the plan. Employees establish SIMPLE IRA with financial organization to receive contributions.
Employee Eligibility	Plan may exclude employees under age 21. Plan may require employees to work up to 3 out of immediately preceding 5 years before being eligible to enter the plan. "Service" means work of any duration, however brief. Employees may be excluded if their annual compensation is under $600 as indexed for 2019. Certain employees covered by a collective bargaining agreement and certain nonresident aliens may be excluded.	No age requirements permitted Plan may require that employees earn at least $5,000 in compensation from the employer during any 2 preceding years and that they are reasonably expected to receive at least $5,000 in compensation in the current year. The employer may adopt less restrictive requirements. Certain employees covered by a collective bargaining agreement and certain nonresident aliens may be excluded.
Employer Contributions	Employer contributions may not exceed the lesser of 25% of compensation or $56,000 for 2019.	Employers may choose 1 of 3 contribution formulas: a dollar-for-dollar match on the employee's deferrals that do not exceed 3% of compensation; a reduced dollar-for-dollar match (on at least the first 1% of compensation, but only in 2 of any 5 years); or a 2% nonelective contribution.

Key Features of Small Employer Retirement Plans		
	SEP Plan	**SIMPLE IRA Plan**
Employee Contributions	No employee deferral allowed.	Employees may defer up to $13,000 for 2019. Employees age 50 and older may contribute up to $3,000 more.
Distributions	Distributions permitted anytime subject to income tax and early distribution penalty taxes.	Distributions permitted anytime subject to income tax and early distribution penalty taxes.
Employer Reporting	No 5500 reporting for employer.	No 5500 reporting for employer.
Financial Organization Reporting	Account statement, FMV statement, RMD statement, Form 1099-R, Form 5498	Account statement, FMV statement, RMD statement, Form 1099-R, summary description, and Form 5498

Employer Options: SEP and SIMPLE IRA Plans

In the following list of benefits, determine if the benefit is for SEP plans, SIMPLE IRA plans, or both.

Inexpensive and simple to administer and maintain	**SEP**	**SIMPLE**	**BOTH**
No IRS or DOL reporting	**SEP**	**SIMPLE**	**BOTH**
Discretionary contributions	**SEP**	**SIMPLE**	**BOTH**
No employee limit	**SEP**	**SIMPLE**	**BOTH**
Full control of assets for employee	**SEP**	**SIMPLE**	**BOTH**
Employee makes no contributions, all done by employer	**SEP**	**SIMPLE**	**BOTH**
Employee allowed to make additional salary deferrals	**SEP**	**SIMPLE**	**BOTH**
Possible tax credit for employers who establish a plan	**SEP**	**SIMPLE**	**BOTH**
Employer receives tax deduction for contributions	**SEP**	**SIMPLE**	**BOTH**

SEP and SIMPLE IRA Plan Support From Ascensus

Operating Forms

- SEP agreement
- SIMPLE agreement for DFI
- SIMPLE agreement for non-DFI
- Annual contribution form

Technical Reference Manual

- Chapter 8 in the *IRA Reference Service* covers SEP plans.
- Chapter 9 in the *IRA Reference Service* covers SIMPLE IRA plans.

IRA Call Center for financial organizations on an Ascensus IRA program

800 Consulting

Webinars

Visit www.ascensus.com for the webinar session dates and registration information.

Other Resources

IRS SEP Plan Website

www.irs.gov/retirement-plans/plan-sponsor/simplified-employee-pension-plan-sep

IRS SIMPLE Plan Website

www.irs.gov/retirement-plans/plan-sponsor/simple-ira-plan

IRS Publication 560, *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*

www.irs.gov/pub/irs-pdf/p560.pdf

IRS Publication 3998, *Choosing a Retirement Solution for Your Small Business*

www.irs.gov/pub/irs-pdf/p3998.pdf

IRS Publication 4333, *SEP Retirement Plans for Small Businesses*

www.irs.gov/pub/irs-pdf/p4333.pdf

IRS Publication 4334, *SIMPLE IRA Plans for Small Businesses*

www.irs.gov/pub/irs-pdf/p4334.pdf

Job Aids

Form **5305-SEP**
(Rev. December 2004)
Department of the Treasury
Internal Revenue Service

Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement

(Under section 408(k) of the Internal Revenue Code)

OMB No. 1545-0499

Do not file with the Internal Revenue Service

______________________________ makes the following agreement under section 408(k) of the Internal Revenue Code and the instructions to this form.
(Name of employer)

Article I—Eligibility Requirements (check applicable boxes—see instructions)

The employer agrees to provide discretionary contributions in each calendar year to the individual retirement account or individual retirement annuity (IRA) of all employees who are at least ________ years old (not to exceed 21 years old) and have performed services for the employer in at least ________ years (not to exceed 3 years) of the immediately preceding 5 years. This simplified employee pension (SEP) ☐ includes ☐ **does not** include employees covered under a collective bargaining agreement, ☐ includes ☐ **does not** include certain nonresident aliens, and ☐ includes ☐ **does not** include employees whose total compensation during the year is less than $450*.

Article II—SEP Requirements (see instructions)

The employer agrees that contributions made on behalf of each eligible employee will be:

A. Based only on the first $205,000* of compensation.
B. The same percentage of compensation for every employee.
C. Limited annually to the smaller of $41,000* or 25% of compensation.
D. Paid to the employee's IRA trustee, custodian, or insurance company (for an annuity contract).

______________________________ ______________________________
Employer's signature and date | Name and title

Instructions

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

Purpose of Form

Form 5305-SEP (Model SEP) is used by an employer to make an agreement to provide benefits to all eligible employees under a simplified employee pension (SEP) described in section 408(k).

Do not file Form 5305-SEP with the IRS. Instead, keep it with your records.

For more information on SEPs and IRAs, see Pub. 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), and Pub. 590, Individual Retirement Arrangements (IRAs).

Instructions to the Employer

Simplified employee pension. A SEP is a written arrangement (a plan) that provides you with an easy way to make contributions toward your employees' retirement income. Under a SEP, you can contribute to an employee's traditional individual retirement account or annuity (traditional IRA). You make contributions directly to an IRA set up by or for each employee with a bank, insurance company, or other qualified financial institution. When using Form 5305-SEP to establish a SEP, the IRA must be a Model traditional IRA established on an IRS form or a master or prototype traditional IRA for which the IRS has issued a favorable opinion letter. You may not make SEP contributions to a Roth IRA or a SIMPLE IRA. Making the agreement on Form 5305-SEP does not establish an employer IRA described in section 408(c).

When not to use Form 5305-SEP. Do not use this form if you:

1. Currently maintain any other qualified retirement plan. This does not prevent you from maintaining another SEP.

2. Have any eligible employees for whom IRAs have not been established.

3. Use the services of leased employees (described in section 414(n)).

4. Are a member of an affiliated service group (described in section 414(m)), a controlled group of corporations (described in section 414(b)), or trades or businesses under common control (described in sections 414(c) and 414(o)), unless all eligible employees of all the members of such groups, trades, or businesses participate in the SEP.

5. Will not pay the cost of the SEP contributions. Do not use Form 5305-SEP for a SEP that provides for elective employee contributions even if the contributions are made under a salary reduction agreement. Use Form 5305A-SEP, or a nonmodel SEP.

Note. *SEPs permitting elective deferrals cannot be established after 1996.*

Eligible employees. All eligible employees must be allowed to participate in the SEP. An eligible employee is any employee who: (1) is at least 21 years old, and (2) has performed "service" for you in at least 3 of the immediately preceding 5 years. You can establish less restrictive eligibility requirements, but not more restrictive ones.

Service is any work performed for you for any period of time, however short. If you are a member of an affiliated service group, a controlled group of corporations, or trades or businesses under common control, service includes any work performed for any period of time for any other member of such group, trades, or businesses.

Excludable employees. The following employees do not have to be covered by the SEP: (1) employees covered by a collective bargaining agreement whose retirement benefits were bargained for in good faith by you and their union, (2) nonresident alien employees who did not earn U.S. source income from you, and (3) employees who received less than $450* in compensation during the year.

Contribution limits. You may make an annual contribution of up to 25% of the employee's compensation or $41,000*, whichever is less. Compensation, for this purpose, does not include employer contributions to the SEP or the employee's compensation in excess of $205,000*. If you also maintain a salary reduction SEP, contributions to the two SEPs together may not exceed the smaller of $41,000* or 25% of compensation for any employee.

You are not required to make contributions every year, but when you do, you must contribute to the SEP-IRAs of all eligible employees who actually performed services during the year of the contribution. This includes eligible employees who die or quit working before the contribution is made.

Contributions cannot discriminate in favor of highly compensated employees. Also, you may not integrate your SEP contributions with, or offset them by, contributions made under the Federal Insurance Contributions Act (FICA).

If this SEP is intended to meet the top-heavy minimum contribution rules of section 416, but it does not cover all your employees who participate in your salary reduction SEP, then you must make minimum contributions to IRAs established on behalf of those employees.

Deducting contributions. You may deduct contributions to a SEP subject to the limits of section 404(h). This SEP is maintained on a calendar year basis and contributions to the

* *For 2005 and later years, this amount is subject to annual cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS website at www.irs.gov.*

For Paperwork Reduction Act Notice, see page 2. Cat. No. 11825J Form **5305-SEP** (Rev. 12-2004)

Form 5305-SEP (Rev. 12-2004) Page **2**

SEP are deductible for your tax year with or within which the calendar year ends. Contributions made for a particular tax year must be made by the due date of your income tax return (including extensions) for that tax year.

Completing the agreement. This agreement is considered adopted when:

- IRAs have been established for all your eligible employees;
- You have completed all blanks on the agreement form without modification; and
- You have given all your eligible employees the following information:

1. A copy of Form 5305-SEP.

2. A statement that traditional IRAs other than the traditional IRAs into which employer SEP contributions will be made may provide different rates of return and different terms concerning, among other things, transfers and withdrawals of funds from the IRAs.

3. A statement that, in addition to the information provided to an employee at the time the employee becomes eligible to participate, the administrator of the SEP must furnish each participant within 30 days of the effective date of any amendment to the SEP, a copy of the amendment and a written explanation of its effects.

4. A statement that the administrator will give written notification to each participant of any employer contributions made under the SEP to that participant's IRA by the later of January 31 of the year following the year for which a contribution is made or 30 days after the contribution is made.

Employers who have established a SEP using Form 5305-SEP and have furnished each eligible employee with a copy of the completed Form 5305-SEP and provided the other documents and disclosures described in *Instructions to the Employer* and *Information for the Employee,* are not required to file the annual information returns, Forms 5500 or 5500-EZ for the SEP. However, under Title I of the Employee Retirement Income Security Act of 1974 (ERISA), this relief from the annual reporting requirements may not be available to an employer who selects, recommends, or influences its employees to choose IRAs into which contributions will be made under the SEP, if those IRAs are subject to provisions that impose any limits on a participant's ability to withdraw funds (other than restrictions imposed by the Code that apply to all IRAs). For additional information on Title I requirements, see the Department of Labor regulation at 29 CFR 2520.104-48.

Information for the Employee

The information below explains what a SEP is, how contributions are made, and how to treat your employer's contributions for tax purposes. For more information, see Pub. 590.

Simplified employee pension. A SEP is a written arrangement (a plan) that allows an employer to make contributions toward your retirement. Contributions are made to a traditional individual retirement account/annuity (traditional IRA). Contributions must be made to either a Model traditional IRA executed on an IRS form or a master or prototype traditional IRA for which the IRS has issued a favorable opinion letter.

An employer is not required to make SEP contributions. If a contribution is made, however, it must be allocated to all eligible employees according to the SEP agreement. The Model SEP (Form 5305-SEP) specifies that the contribution for each eligible employee will be the same percentage of compensation (excluding compensation greater than $205,000*) for all employees.

Your employer will provide you with a copy of the agreement containing participation rules and a description of how employer contributions may be made to your IRA. Your employer must also provide you with a copy of the completed Form 5305-SEP and a yearly statement showing any contributions to your IRA.

All amounts contributed to your IRA by your employer belong to you even after you stop working for that employer.

Contribution limits. Your employer will determine the amount to be contributed to your IRA each year. However, the amount for any year is limited to the smaller of $41,000* or 25% of your compensation for that year. Compensation does not include any amount that is contributed by your employer to your IRA under the SEP. Your employer is not required to make contributions every year or to maintain a particular level of contributions.

Tax treatment of contributions. Employer contributions to your SEP-IRA are excluded from your income unless there are contributions in excess of the applicable limit. Employer contributions within these limits will not be included on your Form W-2.

Employee contributions. You may make regular IRA contributions to an IRA. However, the amount you can deduct may be reduced or eliminated because, as a participant in a SEP, you are covered by an employer retirement plan.

SEP participation. If your employer does not require you to participate in a SEP as a condition of employment, and you elect not to participate, all other employees of your employer may be prohibited from participating. If one or more eligible employees do not participate and the employer tries to establish a SEP for the remaining employees, it could cause adverse tax consequences for the participating employees.

An employer may not adopt this IRS Model SEP if the employer maintains another qualified retirement plan. This does not prevent your employer from adopting this IRS Model SEP and also maintaining an IRS Model Salary Reduction SEP or other SEP. However, if you work for several employers, you may be covered by a SEP of one employer and a different SEP or pension or profit-sharing plan of another employer.

SEP-IRA amounts—rollover or transfer to another IRA. You can withdraw or receive funds from your SEP-IRA if, within 60 days of receipt, you place those funds in the same or another IRA. This is called a "rollover" and can be done without penalty only once in any 1-year period. However, there are no restrictions on the number of times you may make "transfers" if you arrange to have these funds transferred between the trustees or the custodians so that you never have possession of the funds.

Withdrawals. You may withdraw your employer's contribution at any time, but any amount withdrawn is includible in your income unless rolled over. Also, if withdrawals occur before you reach age 59½, you may be subject to a tax on early withdrawal.

Excess SEP contributions. Contributions exceeding the yearly limitations may be withdrawn without penalty by the due date (plus extensions) for filing your tax return (normally April 15), but are includible in your gross income. Excess contributions left in your SEP-IRA after that time may have adverse tax consequences. Withdrawals of those contributions may be taxed as premature withdrawals.

Financial institution requirements. The financial institution where your IRA is maintained must provide you with a disclosure statement that contains the following information in plain, nontechnical language:

1. The law that relates to your IRA.

2. The tax consequences of various options concerning your IRA.

3. Participation eligibility rules, and rules on the deductibility of retirement savings.

4. Situations and procedures for revoking your IRA, including the name, address, and telephone number of the person designated to receive notice of revocation. This information must be clearly displayed at the beginning of the disclosure statement.

5. A discussion of the penalties that may be assessed because of prohibited activities concerning your IRA.

6. Financial disclosure that provides the following information:

a. Projects value growth rates of your IRA under various contribution and retirement schedules, or describes the method of determining annual earnings and charges that may be assessed.

b. Describes whether, and for when, the growth projections are guaranteed, or a statement of the earnings rate and the terms on which the projections are based.

c. States the sales commission for each year expressed as a percentage of $1,000.

In addition, the financial institution must provide you with a financial statement each year. You may want to keep these statements to evaluate your IRA's investment performance.

Paperwork Reduction Act Notice. 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 this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	1 hr., 40 min.
Learning about the law or the form	1 hr., 35 min.
Preparing the form . . .	1 hr., 41 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 Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, Washington, DC 20224. Do not send this form to this address. Instead, keep it with your records.

Form **5304-SIMPLE**
(Rev. March 2012)
Department of the Treasury
Internal Revenue Service

Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—Not for Use With a Designated Financial Institution

OMB No. 1545-1502

Do not file with the Internal Revenue Service

________________________________ establishes the following SIMPLE
Name of Employer

IRA plan under section 408(p) of the Internal Revenue Code and pursuant to the instructions contained in this form.

Article I—Employee Eligibility Requirements *(complete applicable box(es) and blanks—see instructions)*

1 **General Eligibility Requirements.** The Employer agrees to permit salary reduction contributions to be made in each calendar year to the SIMPLE IRA established by each employee who meets the following requirements (select either 1a or 1b):

a ☐ **Full Eligibility.** All employees are eligible.

b ☐ **Limited Eligibility.** Eligibility is limited to employees who are described in both (i) and (ii) below:

(i) **Current compensation.** Employees who are reasonably expected to receive at least $ ____________________ in compensation (not to exceed $5,000) for the calendar year.

(ii) **Prior compensation.** Employees who have received at least $ ____________________ in compensation (not to exceed $5,000) during any ___________ calendar year(s) (insert 0, 1, or 2) preceding the calendar year.

2 **Excludable Employees.**

☐ The Employer elects to exclude employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining. **Note:** *This box is deemed checked if the Employer maintains a qualified plan covering only such employees.*

Article II—Salary Reduction Agreements *(complete the box and blank, if applicable—see instructions)*

1 **Salary Reduction Election.** An eligible employee may make an election to have his or her compensation for each pay period reduced. The total amount of the reduction in the employee's compensation for a calendar year cannot exceed the applicable amount for that year.

2 **Timing of Salary Reduction Elections**

a For a calendar year, an eligible employee may make or modify a salary reduction election during the 60-day period immediately preceding January 1 of that year. However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.

b In addition to the election periods in 2a, eligible employees may make salary reduction elections or modify prior elections _______________ , ____ . If the Employer chooses this option, insert a period or periods (for example, semi-annually, quarterly, monthly, or daily) that will apply uniformly to all eligible employees.

c No salary reduction election may apply to compensation that an employee received, or had a right to immediately receive, before execution of the salary reduction election.

d An employee may terminate a salary reduction election at any time during the calendar year. ☐ If this box is checked, an employee who terminates a salary reduction election not in accordance with 2b may not resume salary reduction contributions during the calendar year.

Article III—Contributions *(complete the blank, if applicable—see instructions)*

1 **Salary Reduction Contributions.** The amount by which the employee agrees to reduce his or her compensation will be contributed by the Employer to the employee's SIMPLE IRA.

2a **Matching Contributions**

(i) For each calendar year, the Employer will contribute a matching contribution to each eligible employee's SIMPLE IRA equal to the employee's salary reduction contributions up to a limit of 3% of the employee's compensation for the calendar year.

(ii) The Employer may reduce the 3% limit for the calendar year in (i) only if:

(1) The limit is not reduced below 1%; **(2)** The limit is not reduced for more than 2 calendar years during the 5-year period ending with the calendar year the reduction is effective; and **(3)** Each employee is notified of the reduced limit within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).

b **Nonelective Contributions**

(i) For any calendar year, instead of making matching contributions, the Employer may make nonelective contributions equal to 2% of compensation for the calendar year to the SIMPLE IRA of each eligible employee who has at least $____________________ , (not more than $5,000) in compensation for the calendar year. No more than $250,000* in compensation can be taken into account in determining the nonelective contribution for each eligible employee.

(ii) For any calendar year, the Employer may make 2% nonelective contributions instead of matching contributions only if:

(1) Each eligible employee is notified that a 2% nonelective contribution will be made instead of a matching contribution; and

(2) This notification is provided within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).

3 **Time and Manner of Contributions**

a The Employer will make the salary reduction contributions (described in 1 above) for each eligible employee to the SIMPLE IRA established at the financial institution selected by that employee no later than 30 days after the end of the month in which the money is withheld from the employee's pay. See instructions.

b The Employer will make the matching or nonelective contributions (described in 2a and 2b above) for each eligible employee to the SIMPLE IRA established at the financial institution selected by that employee no later than the due date for filing the Employer's tax return, including extensions, for the taxable year that includes the last day of the calendar year for which the contributions are made.

* *This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS's internet website at* ***IRS.gov.***

For Paperwork Reduction Act Notice, see the instructions. Cat. No. 23377W Form **5304-SIMPLE** (Rev. 3-2012)

Form 5304-SIMPLE (Rev. 3-2012) Page **2**

Article IV—Other Requirements and Provisions

1 **Contributions in General.** The Employer will make no contributions to the SIMPLE IRAs other than salary reduction contributions (described in Article III, item 1) and matching or nonelective contributions (described in Article III, items 2a and 2b).

2 **Vesting Requirements.** All contributions made under this SIMPLE IRA plan are fully vested and nonforfeitable.

3 **No Withdrawal Restrictions.** The Employer may not require the employee to retain any portion of the contributions in his or her SIMPLE IRA or otherwise impose any withdrawal restrictions.

4 **Selection of IRA Trustee.** The Employer must permit each eligible employee to select the financial institution that will serve as the trustee, custodian, or issuer of the SIMPLE IRA to which the Employer will make all contributions on behalf of that employee.

5 **Amendments To This SIMPLE IRA Plan.** This SIMPLE IRA plan may not be amended except to modify the entries inserted in the blanks or boxes provided in Articles I, II, III, VI, and VII.

6 **Effects Of Withdrawals and Rollovers**

a An amount withdrawn from the SIMPLE IRA is generally includible in gross income. However, a SIMPLE IRA balance may be rolled over or transferred on a tax-free basis to another IRA designed solely to hold funds under a SIMPLE IRA plan. In addition, an individual may roll over or transfer his or her SIMPLE IRA balance to any IRA or eligible retirement plan after a 2-year period has expired since the individual first participated in any SIMPLE IRA plan of the Employer. Any rollover or transfer must comply with the requirements under section 408.

b If an individual withdraws an amount from a SIMPLE IRA during the 2-year period beginning when the individual first participated in any SIMPLE IRA plan of the Employer and the amount is subject to the additional tax on early distributions under section 72(t), this additional tax is increased from 10% to 25%.

Article V—Definitions

1 **Compensation**

a **General Definition of Compensation.** Compensation means the sum of the wages, tips, and other compensation from the Employer subject to federal income tax withholding (as described in section 6051(a)(3)), the amounts paid for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, and the employee's salary reduction contributions made under this plan, and, if applicable, elective deferrals under a section 401(k) plan, a SARSEP, or a section 403(b) annuity contract and compensation deferred under a section 457 plan required to be reported by the Employer on Form W-2 (as described in section 6051(a)(8)).

b **Compensation for Self-Employed Individuals.** For self-employed individuals, compensation means the net earnings from self-employment determined under section 1402(a), without regard to section 1402(c)(6), prior to subtracting any contributions made pursuant to this plan on behalf of the individual.

2 **Employee.** Employee means a common-law employee of the Employer. The term employee also includes a self-employed individual and a leased employee described in section 414(n) but does not include a nonresident alien who received no earned income from the Employer that constitutes income from sources within the United States.

3 **Eligible Employee.** An eligible employee means an employee who satisfies the conditions in Article I, item 1 and is not excluded under Article I, item 2.

4 **SIMPLE IRA.** A SIMPLE IRA is an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b), to which the only contributions that can be made are contributions under a SIMPLE IRA plan and rollovers or transfers from another SIMPLE IRA.

Article VI—Procedures for Withdrawals *(The Employer will provide each employee with the procedures for withdrawals of contributions received by the financial institution selected by that employee, and that financial institution's name and address (by attaching that information or inserting it in the space below) unless:* ***(1)*** *that financial institution's procedures are unavailable, or* ***(2)*** *that financial institution provides the procedures directly to the employee. See* ***Employee Notification*** *in the instructions.)*

Article VII—Effective Date

This SIMPLE IRA plan is effective ______________________________ . See instructions.

* * * * *

Name of Employer	By:	Signature	Date
Address of Employer		Name and title	

Form **5304-SIMPLE** (Rev. 3-2012)

Form 5304-SIMPLE (Rev. 3-2012) Page **3**

Model Notification to Eligible Employees

I. Opportunity to Participate in the SIMPLE IRA Plan

You are eligible to make salary reduction contributions to the ______________________________ SIMPLE IRA plan. This notice and the attached summary description provide you with information that you should consider before you decide whether to start, continue, or change your salary reduction agreement.

II. Employer Contribution Election

For the ________ calendar year, the Employer elects to contribute to your SIMPLE IRA *(employer must select either (1), (2), or (3)):*

☐ **(1)** A matching contribution equal to your salary reduction contributions up to a limit of 3% of your compensation for the year;

☐ **(2)** A matching contribution equal to your salary reduction contributions up to a limit of ____________ % *(employer must insert a number from 1 to 3 and is subject to certain restrictions)* of your compensation for the year; or

☐ **(3)** A nonelective contribution equal to 2% of your compensation for the year (limited to compensation of $250,000*) if you are an employee who *makes at least $* ________________ *(employer must insert an amount that is $5,000 or less)* in compensation for the year.

III. Administrative Procedures

To start or change your salary reduction contributions, you must complete the salary reduction agreement and return it to ______________________________ (employer should designate a place or *individual by* ______________________ *(employer should insert a date that is not less than 60 days after notice is given).*

IV. Employee Selection of Financial Institution

You must select the financial institution that will serve as the trustee, custodian, or issuer of your SIMPLE IRA and notify your Employer of your selection.

Model Salary Reduction Agreement

SAMPLE

I. Salary Reduction Election

Subject to the requirements of the SIMPLE IRA plan of ______________________________ *(name of employer)* I authorize __________ % or $ ________________ (which equals ________ % of my current rate of pay) to be withheld from my pay for each pay period and contributed to my SIMPLE IRA as a salary reduction contribution.

II. Maximum Salary Reduction

I understand that the total amount of my salary reduction contributions in any calendar year cannot exceed the applicable amount for that year. See instructions.

III. Date Salary Reduction Begins

I understand that my salary reduction contributions will start as soon as permitted under the SIMPLE IRA plan and as soon as administratively feasible or, if later, ________________________ . *(Fill in the date you want the salary reduction contributions to begin. The date must be after you sign this agreement.)*

IV. Employee Selection of Financial Institution

I select the following financial institution to serve as the trustee, custodian, or issuer of my SIMPLE IRA.

____
Name of financial institution

____
Address of financial institution

____
SIMPLE IRA account name and number

I understand that I must establish a SIMPLE IRA to receive any contributions made on my behalf under this SIMPLE IRA plan. If the information regarding my SIMPLE IRA is incomplete when I first submit my salary reduction agreement, I realize that it must be completed by the date contributions must be made under the SIMPLE IRA plan. If I fail to update my agreement to provide this information by that date, I understand that my Employer may select a financial institution for my SIMPLE IRA.

V. Duration of Election

This salary reduction agreement replaces any earlier agreement and will remain in effect as long as I remain an eligible employee under the SIMPLE IRA plan or until I provide my Employer with a request to end my salary reduction contributions or provide a new salary reduction agreement as permitted under this SIMPLE IRA plan.

Signature of employee ______________________________ Date ____________________

* *This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS website at* ***IRS.gov.***

Form **5304-SIMPLE** (Rev. 3-2012)

Form 5304-SIMPLE (Rev. 3-2012) Page **4**

General Instructions

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

Purpose of Form

Form 5304-SIMPLE is a model Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) plan document that an employer may use to establish a SIMPLE IRA plan described in section 408(p), under which each eligible employee is permitted to select the financial institution for his or her SIMPLE IRA.

These instructions are designed to assist in the establishment and administration of the SIMPLE IRA plan. They are not intended to supersede any provision in the SIMPLE IRA plan.

Do not file Form 5304-SIMPLE with the IRS. Instead, keep it with your records.

For more information, see Pub. 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), and Pub. 590, Individual Retirement Arrangements (IRAs).

Note. If you used the March 2002, August 2005, or September 2008 version of Form 5304-SIMPLE to establish a model Savings Incentive Match Plan, you are not required to use this version of the form.

Which Employers May Establish and Maintain a SIMPLE IRA Plan?

To establish and maintain a SIMPLE IRA plan, you must meet both of the following requirements:

1. Last calendar year, you had no more than 100 employees (including self-employed individuals) who earned $5,000 or more in compensation from you during the year. If you have a SIMPLE IRA plan but later exceed this 100-employee limit, you will be treated as meeting the limit for the 2 years following the calendar year in which you last satisfied the limit.

2. You do not maintain during any part of the calendar year another qualified plan with respect to which contributions are made, or benefits are accrued, for service in the calendar year. For this purpose, a qualified plan (defined in section 219(g)(5)) includes a qualified pension plan, a profit-sharing plan, a stock bonus plan, a qualified annuity plan, a tax-sheltered annuity plan, and a simplified employee pension (SEP) plan. A qualified plan that only covers employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining is disregarded if these employees are excluded from participating in the SIMPLE IRA plan. If the failure to continue to satisfy the 100-employee limit or the one-plan rule described in 1 and 2 above is due to an acquisition or similar transaction involving your business, special rules apply. Consult your tax advisor to find out if you can still maintain the plan after the transaction.

Certain related employers (trades or businesses under common control) must be treated as a single employer for purposes of the SIMPLE IRA requirements. These are: (1) a controlled group of corporations under section 414(b); (2) a partnership or sole proprietorship under common control under section 414(c); or (3) an affiliated service group under section 414(m). In addition, if you have leased employees required to be treated as your own employees under the rules of section 414(n), then you must count all such leased employees for the requirements listed above.

What Is a SIMPLE IRA Plan?

A SIMPLE IRA plan is a written arrangement that provides you and your employees with an easy way to make contributions to provide retirement income for your employees. Under a SIMPLE IRA plan, employees may choose whether to make salary reduction contributions to the SIMPLE IRA plan rather than receiving these amounts as part of their regular compensation. In addition, you will contribute matching or nonelective contributions on behalf of eligible employees (see *Employee Eligibility Requirements* below and *Contributions* later). All contributions under this plan will be deposited into a SIMPLE individual retirement account or annuity established for each eligible employee with the financial institution selected by him or her.

When To Use Form 5304-SIMPLE

A SIMPLE IRA plan may be established by using this Model Form or any other document that satisfies the statutory requirements.

Do not use Form 5304-SIMPLE if:

1. You want to require that all SIMPLE IRA plan contributions initially go to a financial institution designated by you. That is, you do not want to permit each of your eligible employees to choose a financial institution that will initially receive contributions. Instead, use Form 5305-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—for Use With a Designated Financial Institution;

2. You want employees who are nonresident aliens receiving no earned income from you that is income from sources within the United States to be eligible under this plan; or

3. You want to establish a SIMPLE 401(k) plan.

Completing Form 5304-SIMPLE

Pages 1 and 2 of Form 5304-SIMPLE contain the operative provisions of your SIMPLE IRA plan. This SIMPLE IRA plan is considered adopted when you have completed all applicable boxes and blanks and it has been executed by you.

The SIMPLE IRA plan is a legal document with important tax consequences for you and your employees. You may want to consult with your attorney or tax advisor before adopting this plan.

Employee Eligibility Requirements (Article I)

Each year for which this SIMPLE IRA plan is effective, you must permit salary reduction contributions to be made by all of your employees who are reasonably expected to receive at least $5,000 in compensation from you during the year, and who received at least $5,000 in compensation from you in any 2 preceding years. However, you can expand the group of employees who are eligible to participate in the SIMPLE IRA plan by completing the options provided in Article I, items 1a and 1b. To choose full eligibility, check the box in Article I, item 1a. Alternatively, to choose limited eligibility, check the box in Article I, item 1b, and then insert "$5,000" or a lower compensation amount (including zero) and "2" or a lower number of years of service in the blanks in (i) and (ii) of Article I, item 1b.

In addition, you can exclude from participation those employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining. You may do this by checking the box in Article I, item 2. Under certain circumstances, these employees must be excluded. See *Which Employers May Establish and Maintain a SIMPLE IRA Plan?* above.

Salary Reduction Agreements (Article II)

As indicated in Article II, item 1, a salary reduction agreement permits an eligible employee to make a salary reduction election to have his or her compensation for each pay period reduced by a percentage (expressed as a percentage or dollar amount). The total amount of the reduction in the employee's compensation cannot exceed the applicable amount for any calendar year. The applicable amount is $11,500 for 2012. After 2012, the $11,500 amount may be increased for cost-of-living adjustments. In the case of an eligible employee who is 50 or older by the end of the calendar year, the above limitation is increased by $2,500 for 2012. After 2012, the $2,500 amount may be increased for cost-of-living adjustments.

Timing of Salary Reduction Elections

For any calendar year, an eligible employee may make or modify a salary reduction election during the 60-day period immediately preceding January 1 of that year. However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.

You can extend the 60-day election periods to provide additional opportunities for eligible employees to make or modify salary reduction elections using the blank in Article II, item 2b. For example, you can provide that eligible employees may make new salary reduction elections or modify prior elections for any calendar quarter during the 30 days before that quarter.

You may use the *Model Salary Reduction Agreement* on page 3 to enable eligible employees to make or modify salary reduction elections.

Employees must be permitted to terminate their salary reduction elections at any time. They may resume salary reduction contributions for the year if permitted under Article II, item 2b. However, by checking the box in Article II, item 2d, you may prohibit an employee who terminates a salary reduction election outside the normal election cycle from resuming salary reduction contributions during the remainder of the calendar year.

Contributions (Article III)

Only contributions described below may be made to this SIMPLE IRA plan. No additional contributions may be made.

Salary Reduction Contributions

As indicated in Article III, item 1, salary reduction contributions consist of the amount by which the employee agrees to reduce his or her compensation. You must contribute the salary reduction contributions to the financial institution selected by each eligible employee.

Matching Contributions

In general, you must contribute a matching contribution to each eligible employee's SIMPLE IRA equal to the employee's salary reduction contributions. This matching contribution cannot exceed 3% of the employee's compensation. See *Definition of Compensation,* below.

You may reduce this 3% limit to a lower percentage, but not lower than 1%. You cannot lower the 3% limit for more than 2 calendar years out of the 5-year period ending with the calendar year the reduction is effective.

Note. If any year in the 5-year period described above is a year before you first established any SIMPLE IRA plan, you will be treated as making a 3% matching contribution for that year for purposes of determining when you may reduce the employer matching contribution.

To elect this option, you must notify the employees of the reduced limit within a reasonable period of time before the applicable 60-day election periods for the year. See *Timing of Salary Reduction Elections* above.

Nonelective Contributions

Instead of making a matching contribution, you may, for any year, make a nonelective contribution equal to 2% of compensation for each eligible employee who has at least $5,000 in compensation for the year. Nonelective contributions may not be based on more than $250,000* of compensation.

To elect to make nonelective contributions, you must notify employees within a reasonable period of time before the applicable 60-day election periods for such year. See *Timing of Salary Reduction Elections* above.

Note. Insert "$5,000" in Article III, item 2b(i) to impose the $5,000 compensation requirement. You may expand the group of employees who are eligible for nonelective contributions by inserting a compensation amount lower than $5,000.

Effective Date (Article VII)

Insert in Article VII the date you want the provisions of the SIMPLE IRA plan to become effective. You must insert January 1 of the applicable year unless this is the first year for which you are adopting any SIMPLE IRA plan. If this is the first year for which you are adopting a SIMPLE IRA plan, you may insert any date between January 1 and October 1, inclusive of the applicable year.

Additional Information

Timing of Salary Reduction Contributions

The employer must make the salary reduction contributions to the financial institution selected by each eligible employee for his or her SIMPLE IRA no later than the 30th day of the month following the month in which the amounts would otherwise have been payable to the employee in cash.

The Department of Labor has indicated that most SIMPLE IRA plans are also subject to Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Under Department of Labor regulations at 29 CFR 2510.3-102, salary reduction contributions must be made to each participant's SIMPLE IRA as of the earliest date on which those contributions can reasonably be segregated from the employer's general assets, but in no event later than the 30-day deadline described previously.

Definition of Compensation

"Compensation" means the amount described in section 6051(a)(3) (wages, tips, and other compensation from the employer subject to federal income tax withholding under section 3401(a)), and amounts paid for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority. Usually, this is the amount shown in box 1 of Form W-2, Wage and Tax Statement. For further information, see Pub. 15, (Circular E), Employer's Tax Guide. Compensation also includes the salary reduction contributions made under this plan, and, if applicable, compensation deferred under a section 457 plan. In determining an employee's compensation for prior years, the employee's elective deferrals under a section 401(k) plan, a SARSEP, or a section 403(b) annuity contract are also included in the employee's compensation.

For self-employed individuals, compensation means the net earnings from self-employment determined under section 1402(a), without regard to section 1402(c)(6), prior to subtracting any contributions made pursuant to this SIMPLE IRA plan on behalf of the individual.

Employee Notification

You must notify each eligible employee prior to the employee's 60-day election period described above that he or she can make or change salary reduction elections and select the financial institution that will serve as the trustee, custodian, or

This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS's website at **IRS.gov.*

issuer of the employee's SIMPLE IRA. In this notification, you must indicate whether you will provide:

1. A matching contribution equal to your employees' salary reduction contributions up to a limit of 3% of their compensation;

2. A matching contribution equal to your employees' salary reduction contributions subject to a percentage limit that is between 1 and 3% of their compensation; or

3. A nonelective contribution equal to 2% of your employees' compensation.

You can use the *Model Notification to Eligible Employees* earlier to satisfy these employee notification requirements for this SIMPLE IRA plan. A *Summary Description* must also be provided to eligible employees at this time. This summary description requirement may be satisfied by providing a completed copy of pages 1 and 2 of Form 5304-SIMPLE (including the information described in *Article VI—Procedures for Withdrawals).*

If you fail to provide the employee notification (including the summary description) described above, you will be liable for a penalty of $50 per day until the notification is provided. If you can show that the failure was due to reasonable cause, the penalty will not be imposed.

If the financial institution's name, address, or withdrawal procedures are not available at the time the employee must be given the summary description, you must provide the summary description without this information. In that case, you will have reasonable cause for not including this information in the summary description, but only if you ensure that it is provided to the employee as soon as administratively feasible.

Reporting Requirements

You are not required to file any annual information returns for your SIMPLE IRA plan, such as Form 5500, Annual Return/Report of Employee Benefit Plan, or Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan. However, you must report to the IRS which eligible employees are active participants in the SIMPLE IRA plan and the amount of your employees' salary reduction contributions to the SIMPLE IRA plan on Form W-2. These contributions are subject to social security, Medicare, railroad retirement, and federal unemployment tax.

Deducting Contributions

Contributions to this SIMPLE IRA plan are deductible in your tax year containing the end of the calendar year for which the contributions are made.

Contributions will be treated as made for a particular tax year if they are made for that year and are made by the due date (including extensions) of your income tax return for that year.

Summary Description

Each year the SIMPLE IRA plan is in effect, the financial institution for the SIMPLE IRA of each eligible employee must provide the employer the information described in section 408(l)(2)(B). This requirement may be satisfied by providing the employer a current copy of Form 5304-SIMPLE (including instructions) together with the financial institution's procedures for withdrawals from SIMPLE IRAs established at that financial institution, including the financial institution's name and address. The summary description must be received by the employer in sufficient time to comply with the *Employee Notification* requirements earlier.

There is a penalty of $50 per day imposed on the financial institution for each failure to provide the summary description described above. However, if the failure was due to reasonable cause, the penalty will not be imposed.

Paperwork Reduction Act Notice. 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 this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	3 hr., 38 min.
Learning about the law or the form	2 hr., 26 min.
Preparing the form	47 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 Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this address. Instead, keep it with your records.

Form **5305-SIMPLE**
(Rev. March 2012)
Department of the Treasury
Internal Revenue Service

Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—for Use With a Designated Financial Institution

OMB No. 1545-1502
Do not file with the Internal Revenue Service

______________________________ establishes the following SIMPLE
Name of Employer

IRA plan under section 408(p) of the Internal Revenue Code and pursuant to the instructions contained in this form.

Article I—Employee Eligibility Requirements *(complete applicable box(es) and blanks—see instructions)*

1 **General Eligibility Requirements.** The Employer agrees to permit salary reduction contributions to be made in each calendar year to the SIMPLE individual retirement account or annuity established at the designated financial institution (SIMPLE IRA) for each employee who meets the following requirements (select either 1a or 1b):

a ☐ **Full Eligibility.** All employees are eligible.

b ☐ **Limited Eligibility.** Eligibility is limited to employees who are described in both (i) and (ii) below:

(i) **Current compensation.** Employees who are reasonably expected to receive at least $ ____________ in compensation (not to exceed $5,000) for calendar year.

(ii) **Prior compensation.** Employees who have received at least $ ____________ in compensation (not to exceed $5,000) during any ______ calendar year(s) (insert 0, 1, or 2) preceding the calendar year.

2 **Excludable Employees**

☐ The Employer elects to exclude employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining. **Note:** *This box is deemed checked if the Employer maintains a qualified plan covering only such employees.*

Article II—Salary Reduction Agreements *(complete the box and blank, if applicable—see instructions)*

1 **Salary Reduction Election.** An eligible employee may make an election to have his or her compensation for each pay period reduced. The total amount of the reduction in the employee's compensation for a calendar year cannot exceed the applicable amount for that year. See instructions.

2 **Timing of Salary Reduction Elections**

a For a calendar year, an eligible employee may make or modify a salary reduction election during the 60-day period immediately preceding January 1 of that year. However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.

b In addition to the election periods in 2a, eligible employees may make salary reduction elections or modify prior elections ______________________________. If the Employer chooses this option, insert a period or periods (e.g., semi-annually, quarterly, monthly, or daily) that will apply uniformly to all eligible employees.

c No salary reduction election may apply to compensation that an employee received, or had a right to immediately receive, before execution of the salary reduction election.

d An employee may terminate a salary reduction election at any time during the calendar year. ☐ If this box is checked, an employee who terminates a salary reduction election not in accordance with 2b may not resume salary reduction contributions during the calendar year.

Article III—Contributions *(complete the blank, if applicable—see instructions)*

1 **Salary Reduction Contributions.** The amount by which the employee agrees to reduce his or her compensation will be contributed by the Employer to the employee's SIMPLE IRA.

2a **Matching Contributions**

(i) For each calendar year, the Employer will contribute a matching contribution to each eligible employee's SIMPLE IRA equal to the employee's salary reduction contributions up to a limit of 3% of the employee's compensation for the calendar year.

(ii) The Employer may reduce the 3% limit for the calendar year in (i) only if:

(1) The limit is not reduced below 1%; **(2)** The limit is not reduced for more than 2 calendar years during the 5-year period ending with the calendar year the reduction is effective; and **(3)** Each employee is notified of the reduced limit within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).

b **Nonelective Contributions**

(i) For any calendar year, instead of making matching contributions, the Employer may make nonelective contributions equal to 2% of compensation for the calendar year to the SIMPLE IRA of each eligible employee who has at least $ ____________ (not more than $5,000) in compensation for the calendar year. No more than $250,000* in compensation can be taken into account in determining the nonelective contribution for each eligible employee.

(ii) For any calendar year, the Employer may make 2% nonelective contributions instead of matching contributions only if:

(1) Each eligible employee is notified that a 2% nonelective contribution will be made instead of a matching contribution; and

(2) This notification is provided within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).

3 **Time and Manner of Contributions**

a The Employer will make the salary reduction contributions (described in 1 above) to the designated financial institution for the IRAs established under this SIMPLE IRA plan no later than 30 days after the end of the month in which the money is withheld from the employee's pay. See instructions.

b The Employer will make the matching or nonelective contributions (described in 2a and 2b above) to the designated financial institution for the IRAs established under this SIMPLE IRA plan no later than the due date for filing the Employer's tax return, including extensions, for the taxable year that includes the last day of the calendar year for which the contributions are made.

* *This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS's internet website at* ***IRS.gov****.*

For Paperwork Reduction Act Notice, see instructions. Cat. No. 23063F Form **5305-SIMPLE** (Rev. 3-2012)

Form 5305-SIMPLE (Rev. 3-2012) Page **2**

Article IV—Other Requirements and Provisions

1 **Contributions in General.** The Employer will make no contributions to the SIMPLE IRAs other than salary reduction contributions (described in Article III, item 1) and matching or nonelective contributions (described in Article III, items 2a and 2b).

2 **Vesting Requirements.** All contributions made under this SIMPLE IRA plan are fully vested and nonforfeitable.

3 **No Withdrawal Restrictions.** The Employer may not require the employee to retain any portion of the contributions in his or her SIMPLE IRA or otherwise impose any withdrawal restrictions.

4 **No Cost Or Penalty For Transfers.** The Employer will not impose any cost or penalty on a participant for the transfer of the participant's SIMPLE IRA balance to another IRA.

5 **Amendments To This SIMPLE IRA Plan.** This SIMPLE IRA plan may not be amended except to modify the entries inserted in the blanks or boxes provided in Articles I, II, III, VI, and VII.

6 **Effects Of Withdrawals and Rollovers**

a An amount withdrawn from the SIMPLE IRA is generally includible in gross income. However, a SIMPLE IRA balance may be rolled over or transferred on a tax-free basis to another IRA designed solely to hold funds under a SIMPLE IRA plan. In addition, an individual may roll over or transfer his or her SIMPLE IRA balance to any IRA or eligible retirement plan after a 2-year period has expired since the individual first participated in any SIMPLE IRA plan of the Employer. Any rollover or transfer must comply with the requirements of section 408.

b If an individual withdraws an amount from a SIMPLE IRA during the 2-year period beginning when the individual first participated in any SIMPLE IRA plan of the Employer and the amount is subject to the additional tax on early distributions under section 72(t), this additional tax is increased from 10% to 25%.

Article V—Definitions

1 **Compensation**

a **General Definition of Compensation.** Compensation means the sum of wages, tips, and other compensation from the Employer subject to federal income tax withholding (as described in section 6051(a)(3)), the amounts paid for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, and the employee's salary reduction contributions made under this plan, and, if applicable, elective deferrals under a section 401(k) plan, a SARSEP, or a section 403(b) annuity contract and compensation deferred under a section 457 plan required to be reported by the Employer on Form W-2 (as described in section 6051(a)(8)).

b **Compensation for Self-Employed Individuals.** For self-employed individuals, compensation means the net earnings from self-employment determined under section 1402(a), without regard to section 1402(c)(6), prior to subtracting any contributions made pursuant to this plan on behalf of the individual.

2 **Employee.** Employee means a common-law employee of the Employer. The term employee also includes a self-employed individual and a leased employee described in section 414(n) but does not include a nonresident alien who received no earned income from the Employer that constitutes income from sources within the United States.

3 **Eligible Employee.** An eligible employee means an employee who satisfies the conditions in Article I, item 1 and is not excluded under Article I, item 2.

4 **Designated Financial Institution.** A designated financial institution is a trustee, custodian, or insurance company (that issues annuity contracts) for the SIMPLE IRA plan that receives all contributions made pursuant to the SIMPLE IRA plan and deposits those contributions to the SIMPLE IRA of each eligible employee.

SAMPLE

Article VI—Procedures for Withdrawals and Transfers *(The designated financial institution will provide the instructions (to be attached or inserted in the space below) on the procedures for withdrawals of contributions by employees.)*

Article VII—Effective Date

This SIMPLE IRA plan is effective ______________________________ . See instructions.

*   *   *   *   *

Name of Employer	By: Signature Date
Address of Employer	Name and title

The undersigned agrees to serve as designated financial institution, receiving all contributions made pursuant to this SIMPLE IRA plan and depositing those contributions to the SIMPLE IRA of each eligible employee as soon as practicable. Upon the request of any participant, the undersigned also agrees to transfer the participant's balance in a SIMPLE IRA established under this SIMPLE IRA plan to another IRA without cost or penalty to the participant.

Name of designated financial institution	By: Signature Date
Address	Name and title

Form **5305-SIMPLE** (Rev. 3-2012)

Form 5305-SIMPLE (Rev. 3-2012) Page **3**

Model Notification to Eligible Employees

I. Opportunity to Participate in the SIMPLE IRA Plan

You are eligible to make salary reduction contributions to the ______________________________ SIMPLE IRA plan. This notice and the attached summary description provide you with information that you should consider before you decide whether to start, continue, or change your salary reduction agreement.

II. Employer Contribution Election

For the ________ calendar year, the Employer elects to contribute to your SIMPLE IRA *(employer must select either (1), (2), or (3)):*

- ☐ **(1)** A matching contribution equal to your salary reduction contributions up to a limit of 3% of your compensation for the year;
- ☐ **(2)** A matching contribution equal to your salary reduction contributions up to a limit of _______ % *(employer must insert a number from 1 to 3 and is subject to certain restrictions)* of your compensation for the year; or
- ☐ **(3)** A nonelective contribution equal to 2% of your compensation for the year (limited to compensation of $250,000*) if you are an employee who makes at least $ __________ *(employer must insert an amount that is $5,000 or less)* in compensation for the year.

III. Administrative Procedures

To start or change your salary reduction contributions, you must complete the salary reduction agreement and return it to ______________________________ *(employer should designate a place or individual)* by ______________________ *(employer should insert a date that is not less than 60 days after notice is given).*

Model Salary Reduction Agreement

I. Salary Reduction Election

Subject to the requirements of the SIMPLE IRA plan of ______________________________ *(name of employer)* I authorize _______ % or $ ____________ (which equals ________ % of my current rate of pay) to be withheld from my pay for each pay period and contributed to my SIMPLE IRA as a salary reduction contribution.

II. Maximum Salary Reduction

I understand that the total amount of my salary reduction contributions in any calendar year cannot exceed the applicable amount for that year. See instructions.

III. Date Salary Reduction Begins

I understand that my salary reduction contributions will start as soon as permitted under the SIMPLE IRA plan and as soon as administratively feasible or, if later, ______________________ . *(Fill in the date you want the salary reduction contributions to begin. The date must be after you sign this agreement.)*

IV. Duration of Election

This salary reduction agreement replaces any earlier agreement and will remain in effect as long as I remain an eligible employee under the SIMPLE IRA plan or until I provide my Employer with a request to end my salary reduction contributions or provide a new salary reduction agreement as permitted under this SIMPLE IRA plan.

Signature of employee ______________________________ Date ______________________

* *This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS website at* ***IRS.gov.***

Form **5305-SIMPLE** (Rev. 3-2012)

General Instructions

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

Purpose of Form

Form 5305-SIMPLE is a model Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) plan document that an employer may use in combination with SIMPLE IRAs to establish a SIMPLE IRA plan described in section 408(p).

These instructions are designed to assist in the establishment and administration of the SIMPLE IRA plan. They are not intended to supersede any provision in the SIMPLE IRA plan.

Do not file Form 5305-SIMPLE with the IRS. Instead, keep it with your records.

For more information, see Pub. 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), and Pub. 590, Individual Retirement Arrangements (IRAs).

Note. If you used the March 2002, August 2005, or September 2008 version of Form 5305-SIMPLE to establish a model Savings Incentive Match Plan, you are not required to use this version of the form.

Instructions for the Employer

Which Employers May Establish and Maintain a SIMPLE IRA Plan?

To establish and maintain a SIMPLE IRA plan, you must meet both of the following requirements:

1. Last calendar year, you had no more than 100 employees (including self-employed individuals) who earned $5,000 or more in compensation from you during the year. If you have a SIMPLE IRA plan but later exceed this 100-employee limit, you will be treated as meeting the limit for the 2 years following the calendar year in which you last satisfied the limit.

2. You do not maintain during any part of the calendar year another qualified plan with respect to which contributions are made, or benefits are accrued, for service in the calendar year. For this purpose, a qualified plan (defined in section 219(g)(5)) includes a qualified pension plan, a profit-sharing plan, a stock bonus plan, a qualified annuity plan, a tax-sheltered annuity plan, and a simplified employee pension (SEP) plan. A qualified plan that only covers employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining is disregarded if these employees are excluded from participating in the SIMPLE IRA plan.

If the failure to continue to satisfy the 100-employee limit or the one-plan rule described in 1 or 2 above is due to an acquisition or similar transaction involving your business, special rules apply. Consult your tax advisor to find out if you can still maintain the plan after the transaction.

Certain related employers (trades or businesses under common control) must be treated as a single employer for purposes of the SIMPLE requirements. These are:

(1) a controlled group of corporations under section 414(b);

(2) a partnership or sole proprietorship under common control under section 414(c); or

(3) an affiliated service group under section 414(m). In addition, if you have leased employees required to be treated as your own employees under the rules of section 414(n), then you must count all such leased employees for the requirements listed above.

What Is a SIMPLE IRA Plan?

A SIMPLE IRA plan is a written arrangement that provides you and your employees with an easy way to make contributions to provide retirement income for your employees. Under a SIMPLE IRA plan, employees may choose whether to make salary reduction contributions to the SIMPLE IRA plan rather than receiving these amounts as part of their regular compensation. In addition, you will contribute matching or nonelective contributions on behalf of eligible employees (see *Employee Eligibility Requirements* below and *Contributions* later). All contributions under this plan will be deposited into a SIMPLE individual retirement account or annuity established for each eligible employee with the designated financial institution named in Article VII.

When To Use Form 5305-SIMPLE

A SIMPLE IRA plan may be established by using this Model Form or any other document that satisfies the statutory requirements.

Do not use Form 5305-SIMPLE if:

1. You want to permit each of your eligible employees to choose a financial institution that will initially receive contributions. Instead, use Form 5304-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—Not for Use With a Designated Financial Institution;

2. You want employees who are nonresident aliens receiving no earned income from you that is income from sources within the United States to be eligible under this plan; or

3. You want to establish a SIMPLE 401(k) plan.

Completing Form 5305-SIMPLE

Pages 1 and 2 of Form 5305-SIMPLE contain the operative provisions of your SIMPLE IRA plan. This SIMPLE IRA plan is considered adopted when you have completed all appropriate boxes and blanks and it has been executed by you and the designated financial institution.

The SIMPLE IRA plan is a legal document with important tax consequences for you and your employees. You may want to consult with your attorney or tax advisor before adopting this plan.

Employee Eligibility Requirements (Article I)

Each year for which this SIMPLE IRA plan is effective, you must permit salary reduction contributions to be made by all of your employees who are reasonably expected to receive at least $5,000 in compensation from you during the year, and who received at least $5,000 in compensation from you in any 2 preceding years. However, you can expand the group of employees who are eligible to participate in the SIMPLE IRA plan by completing the options provided in Article I, items 1a and 1b. To choose full eligibility, check the box in Article I, item 1a. Alternatively, to choose limited eligibility, check the box in Article I, item 1b, and then insert “$5,000” or a lower compensation amount (including zero) and “2” or a lower number of years of service in the blanks in (i) and (ii) of Article I, item 1b.

In addition, you can exclude from participation those employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining. You may do this by checking the box in Article I, item 2. Under certain circumstances, these employees must be excluded. See *Which Employers May Establish and Maintain a SIMPLE IRA Plan?* earlier.

Salary Reduction Agreements (Article II)

As indicated in Article II, item 1, a salary reduction agreement permits an eligible employee to make an election to have his or her compensation for each pay period reduced by a percentage (expressed as a percentage or dollar amount). The total amount of the reduction in the employee’s compensation cannot exceed the applicable amount for any calendar year. The applicable amount is $11,500 for 2012. After 2012, the $11,500 amount may be increased for cost-of-living adjustments. In the case of an eligible employee who is 50 or older by the end of the calendar year, the above limitation is increased by $2,500 for 2012. After 2012, the $2,500 amount may be increased for cost-of-living adjustments.

Timing of Salary Reduction Elections

For a calendar year, an eligible employee may make or modify a salary reduction election during the 60-day period immediately preceding January 1 of that year. However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.

You can extend the 60-day election periods to provide additional opportunities for eligible employees to make or modify salary reduction elections using the blank in Article II, item 2b. For example, you can provide that eligible employees may make new salary reduction elections or modify prior elections for any calendar quarter during the 30 days before that quarter.

You may use the *Model Salary Reduction Agreement* on page 3 to enable eligible employees to make or modify salary reduction elections.

Employees must be permitted to terminate their salary reduction elections at any time. They may resume salary reduction contributions for the year if permitted under Article II, item 2b. However, by checking the box in Article II, item 2d, you may prohibit an employee who terminates a salary reduction election outside the normal election cycle from resuming salary reduction contributions during the remainder of the calendar year.

Contributions (Article III)

Only contributions described below may be made to this SIMPLE IRA plan. No additional contributions may be made.

Salary Reduction Contributions

As indicated in Article III, item 1, salary reduction contributions consist of the amount by which the employee agrees to reduce his or her compensation. You must contribute the salary reduction contributions to the designated financial institution for the employee's SIMPLE IRA.

Matching Contributions

In general, you must contribute a matching contribution to each eligible employee's SIMPLE IRA equal to the employee's salary reduction contributions. This matching contribution cannot exceed 3% of the employee's compensation. See *Definition of Compensation* later.

You may reduce this 3% limit to a lower percentage, but not lower than 1%. You cannot lower the 3% limit for more than 2 calendar years out of the 5-year period ending with the calendar year the reduction is effective.

Note. If any year in the 5-year period described above is a year before you first established any SIMPLE IRA plan, you will be treated as making a 3% matching contribution for that year for purposes of determining when you may reduce the employer matching contribution.

To elect this option, you must notify the employees of the reduced limit within a reasonable period of time before the applicable 60-day election periods for the year. See *Timing of Salary Reduction Elections* earlier.

Nonelective Contributions

Instead of making a matching contribution, you may, for any year, make a nonelective contribution equal to 2% of compensation for each eligible employee who has at least $5,000 in compensation for the year. Nonelective contributions may not be based on more than $250,000* of compensation.

To elect to make nonelective contributions, you must notify employees within a reasonable period of time before the applicable 60-day election periods for such year. See *Timing of Salary Reduction Elections* earlier.

Note. Insert "$5,000" in Article III, item 2b(i) to impose the $5,000 compensation requirement. You may expand the group of employees who are eligible for nonelective contributions by inserting a compensation amount lower than $5,000.

Effective Date (Article VII)

Insert in Article VII the date you want the provisions of the SIMPLE IRA plan to become effective. You must insert January 1 of the applicable year unless this is the first year for which you are adopting any SIMPLE IRA plan. If this is the first year for which you are adopting a SIMPLE IRA plan, you may insert any date between January 1 and October 1, inclusive of the applicable year.

Additional Information

Timing of Salary Reduction Contributions

The employer must make the salary reduction contributions to the designated financial institution for the SIMPLE IRAs of all eligible employees no later than the 30th day of the month following the month in which the amounts would otherwise have been payable to the employee in cash.

The Department of Labor has indicated that most SIMPLE IRA plans are also subject to Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Under Department of Labor regulations, at 29 CFR 2510.3-102, salary reduction contributions must be made to the SIMPLE IRA at the designated financial institution as of the earliest date on which those contributions can reasonably be segregated from the employer's general assets, but in no event later than the 30-day deadline described previously.

Definition of Compensation

"Compensation" means the amount described in section 6051(a)(3) (wages, tips, and other compensation from the employer subject to federal income tax withholding under section 3401(a)), and amounts paid for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority. Usually, this is the amount shown in box 1 of Form W-2, Wage and Tax Statement. For further information, see Pub. 15, Circular E, Employer's Tax Guide. Compensation also includes the salary reduction contributions made under this plan, and, if applicable, compensation deferred under a section 457 plan. In determining an employee's compensation for prior years, the employee's elective deferrals under a section 401(k) plan, a SARSEP, or a section 403(b) annuity contract are also included in the employee's compensation.

For self-employed individuals, compensation means the net earnings from self-employment determined under section 1402(a), without regard to section 1402(c)(6), prior to subtracting any contributions made pursuant to this SIMPLE IRA plan on behalf of the individual.

** This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS's website at* ***IRS.gov.***

Employee Notification

You must notify eligible employees prior to the employees' 60-day election period described previously that they can make or change salary reduction elections. In this notification, you must indicate whether you will provide:

1. A matching contribution equal to your employees' salary reduction contributions up to a limit of 3% of their compensation;

2. A matching contribution equal to your employees' salary reduction contributions subject to a percentage limit that is between 1 and 3% of their compensation; or

3. A nonelective contribution equal to 2% of your employees' compensation.

You can use the *Model Notification to Eligible Employees* to satisfy these employee notification requirements for this SIMPLE IRA plan. A Summary Description must also be provided to eligible employees at this time. This summary description requirement may be satisfied by providing a completed copy of pages 1 and 2 of Form 5305-SIMPLE (including the Article VI Procedures for Withdrawals and Transfers from the SIMPLE IRAs established under this SIMPLE IRA plan).

If you fail to provide the employee notification (including the summary description) described above, you will be liable for a penalty of $50 per day until the notification is provided. If you can show that the failure was due to reasonable cause, the penalty will not be imposed.

Reporting Requirements

You are not required to file any annual information returns for your SIMPLE IRA plan, such as Form 5500, Annual Return/Report of Employee Benefit Plan or Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan. However, you must report to the IRS which eligible employees are active participants in the SIMPLE IRA plan and the amount of your employees' salary reduction contributions to the SIMPLE IRA plan on Form W-2. These contributions are subject to social security, Medicare, railroad retirement, and federal unemployment tax.

Deducting Contributions

Contributions to this SIMPLE IRA plan are deductible in your tax year containing the end of the calendar year for which the contributions are made.

Contributions will be treated as made for a particular tax year if they are made for that year and are made by the due date (including extensions) of your income tax return for that year.

Choosing the Designated Financial Institution

As indicated in Article V, item 4, a designated financial institution is a trustee, custodian, or insurance company (that issues annuity contracts) for the SIMPLE IRA plan that would receive all contributions made pursuant to the SIMPLE IRA plan and deposit the contributions to the SIMPLE IRA of each eligible employee.

Only certain financial institutions, such as banks, savings and loan associations, insured credit unions, insurance companies (that issue annuity contracts), or IRS-approved nonbank trustees may serve as a designated financial institution under a SIMPLE IRA plan.

You are not required to choose a designated financial institution for your SIMPLE IRA plan. However, if you do not want to choose a designated financial institution, you cannot use this form (see *When To Use Form 5305-SIMPLE* earlier).

Instructions for the Designated Financial Institution

Completing Form 5305-SIMPLE

By completing Article VII, you have agreed to be the designated financial institution for this SIMPLE IRA plan. You agree to maintain IRAs on behalf of all individuals receiving contributions under the plan and to receive all contributions made pursuant to this plan and to deposit those contributions to the SIMPLE IRAs of each eligible employee as soon as practicable. You also agree that upon the request of a participant, you will transfer the participant's balance in a SIMPLE IRA to another IRA without cost or penalty to the participant.

Summary Description

Each year the SIMPLE IRA plan is in effect, you must provide the employer the information described in section 408(l)(2)(B). This requirement may be satisfied by providing the employer a current copy of Form 5305-SIMPLE (including instructions) together with your procedures for withdrawals and transfers from the SIMPLE IRAs established under this SIMPLE IRA plan. The summary description must be received by the employer in sufficient time to comply with the *Employee Notification* requirements on this page.

If you fail to provide the summary description described above, you will be liable for a penalty of $50 per day until the notification is provided. If you can show that the failure was due to reasonable cause, the penalty will not be imposed.

Paperwork Reduction Act Notice. 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 this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	3 hr., 38 min.
Learning about the law or the form	2 hr., 26 min.
Preparing the form	47 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 Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this address. Instead, keep it for your records.