

# Amending IRA Documents

Supporting Your  
IRA Program



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## Amending IRA Documents

Change is inevitable—especially in the IRA world. And, in this world, with change comes action. That action? Amending IRA documents.

The IRS alerts the IRA industry when IRA documents must be amended. Typically, the IRA plan agreement and the disclosure statement require amending when new laws cause a “material” change in IRA documentation. The financial disclosure, however, is never amended.

Understanding when amendments or new forms are necessary isn’t always easy. Generally, when the President enacts major tax laws affecting IRAs, such as the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), amendments or new plan agreements and disclosure statements are necessary to keep IRAs in compliance with the law. The penalty to financial organizations for not providing a plan agreement and disclosure statement amendment to an IRA owner could be as much as \$100 per IRA. See the following pages for major tax law changes that may have warranted IRA amendments.

### Missing Any Amendments?

When financial organizations review their files to determine if all amendments have been made, they may find that some amendments were missed. Although a financial organization can’t go back and make up for a required amendment that wasn’t completed by a specific deadline, a financial organization can use a universal, or “catch-all,” amendment to bring IRAs into compliance.

A catch-all amendment is made by sending a complete and current plan agreement and disclosure statement to all existing IRA owners. The catch-all amendment contains all rule changes covered in previous amendments. There is no guarantee that the IRS won’t assess penalties for past failures to amend by the deadline, but the IRS may treat a catch-all amendment as a good-faith effort to bring the IRA into compliance.

### Changes in the IRA Department?

When financial organizations merge, are acquired, or purchase other organizations, the change in ownership may affect IRA documentation. When a change of ownership occurs, the financial organization should review all IRA-related procedures and documentation to ensure a smooth transition.

The newly created or purchasing organization generally assumes the responsibilities of the former organization. Although each purchase or merger must be dealt with on a case-by-case basis, many acquisitions and mergers require some form of amendment to the previous IRA plan documents. The procedures to change a trustee or custodian or to alter plan language are controlled by IRA plan document language and by state law.

A financial organization may have another reason to amend if it decides to change IRA forms providers and the forms it uses. The financial organization should review both the forms it currently uses and the forms it wants to use. In some cases, the financial organization may simply start using the new forms. In other cases, the financial organization may need to notify IRA owners of specific changes in the IRA program resulting from new language in the IRA documents. A financial organization also may amend for a law change at the same time it amends for new forms.

### Amendment Tables

The following tables contain laws and other official guidance that may have warranted Traditional and Roth IRA plan agreement or disclosure statement amendments.



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## Traditional IRA Amendment List

Year	Tax Act or IRS Pronouncement	Amend	Examples of Changes
1974	Employee Retirement Income Security Act (ERISA)		Created IRAs, effective in 1975. IRAs were restricted to individuals not covered by their employer's qualified plan.
1976	Tax Reform Act	Plan agreement, disclosure statement	Created spousal contributions and set the spousal limit as the lesser of 15% of a working spouse's compensation or \$1,750.
1978	Revenue Act	Plan agreement, disclosure statement	Created simplified employee pension (SEP) plans. The SEP contribution level was set at the lesser of 15% of compensation or \$7,500.
1981	Economic Recovery Tax Act (ERTA)	Plan agreement, disclosure statement	<p>Allowed IRA contributions for anyone under age 70½ who earned income from personal services rendered, effective in 1982.</p> <p>Increased the Traditional IRA regular contribution level to the lesser of \$2,000 or 100% of compensation.</p> <p>Eliminated collectibles as investments.</p>
1982	Tax Equity and Fiscal Responsibility Act (TEFRA)	Plan agreement, disclosure statement	<p>Eliminated rollovers of inherited IRAs, except for surviving spouses.</p> <p>Added requirement that IRA distributions be subject to federal income tax withholding.</p> <p>Allowed IRA-to-IRA partial rollovers.</p>
1984	Tax Reform Act (TRA-84)	Disclosure statement	<p>Eliminated prior-year contributions during a tax extension period, thereby providing a deadline of April 15 for most taxpayers.</p> <p>Increased SEP deduction limit to the lesser of 15% of compensation or \$30,000.</p> <p>Required the IRS to write new IRA distribution rules.</p>
1986	Tax Reform Act (TRA-86)	Disclosure statement	<p>Added new requirements regarding who can take an IRA deduction.</p> <p>Changed the spousal IRA rules by providing that a spouse with a "small amount of income" can receive a spousal contribution.</p> <p>Created nondeductible IRA contributions.</p>
1988	Announcement 88-27  Technical and Miscellaneous Revenue Act (TAMRA)	Plan agreement  Disclosure statement	<p>Stated that IRAs must be amended by December 31, 1988, to include language resulting from proposed regulations on distributions released in July 1987.</p> <p>Stated that any current-year contribution may be removed as an excess before the tax return due date.</p> <p>Required that if one spouse was an active participant in an employer-sponsored retirement plan, the other spouse is considered an active participant even if the spouses filed separate tax returns.</p> <p>Clarified the excess distribution penalty tax and the exceptions to the early distribution penalty tax.</p>

## Traditional IRA Amendment List

Year	Tax Act or IRS Pronouncement	Amend	Examples of Changes
1992	Revenue Procedure 92-38  Unemployment Compensation Amendments	Plan agreement  Disclosure statement	Added reference to the minimum distribution incidental benefit (MDIB) rule and to the aggregation of required minimum distributions (RMDs).  Relaxed the rollover rules to permit most qualified plan distributions of all or any portion of the balance to the credit of a participant to be rolled over to an IRA, except certain ineligible rollover amounts.  Allowed qualified plan distributions to be rolled over directly into IRAs.
1996	Small Business Job Protection Act of 1996, Health Insurance Portability and Accountability	Disclosure statement	Increased spousal contribution limit per couple from \$2,250 to \$4,000.  Changed reporting requirements so only distributions of \$10 or more are reported.  Conformed reporting penalties to the general, tiered information reporting structure.  Suspended the excess distribution penalty tax for tax years 1997, 1998, and 1999.  Added exceptions to the early distribution penalty tax for distributions used to pay certain medical expenses and health insurance premiums.
1997	Taxpayer Relief Act of 1997	Disclosure statement  New model plan agreements	Increased the Traditional IRA deductibility thresholds for active participants in employer-sponsored retirement plans.  Eliminated the requirement that one spouse's active participation status affects the others spouse's active participant status for Traditional IRA deductibility purposes.  Created penalty-free early IRA distribution reasons to pay for certain higher educational expenses and first-time home buyer expenses.  Permanently repealed the 15% excess distribution penalty tax and the 15% excess accumulation penalty tax.  Allowed certain platinum coins and certain gold, silver, platinum, or palladium bullions as IRA investments as long as the bullion or coins are in the possession of the IRA trustee or custodian.
2001	REG 130477-00 and 130481-00  Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)	Plan agreement, disclosure statement  Plan agreement, disclosure statement	Introduced a uniform distribution period for calculating RMDs.  Altered beneficiary options.  Increased contribution limits, created catch-up contributions, expanded portability of assets, provided for tax credits, and more.

## Traditional IRA Amendment List

Year	Tax Act or IRS Pronouncement	Amend	Examples of Changes
2002	Revenue Procedure 2002-10	Plan agreement, disclosure statement	Provided requirements for amending IRA and IRA-based plan documents for changes because of EGTRRA and final distribution regulations.
	Final required distribution regulations (TD 8987)	Plan agreement, disclosure statement	Finalized beneficiary distribution options and changed the rules for calculating RMDs.
	Announcement 2002-49	Plan agreement, disclosure statement	Extended deadline to October 1, 2002, for using new documents to establish IRAs and IRA-based plans.
2004	Additional final RMD regulations (TD 9130)	Annuity endorsement and disclosure statement amending not immediately required, but anticipated upon future IRS guidance	Retained the basic rules of temporary regulations issued in TD 8987, clarified when annuity contracts may provide for increasing benefits, and added more freedom to change annuity payouts after they have begun.  Altered separate accounting rules related to beneficiary subaccounts.
2006	Katrina Emergency Tax Relief Act of 2005, Gulf Opportunity Zone Act of 2005	Disclosure statement	Allowed qualified victims of Hurricanes Rita, Katrina, or Wilma favorable tax treatment for certain distributions and rollovers. Provided exceptions to the early distribution penalty tax for qualified distributions.
	Tax Increase Prevention and Reconciliation Act of 2005	Disclosure statement	Eliminated the \$100,000 income limitation and married single filer restriction from conversion eligibility requirements, beginning in 2010.
	Pension Protection Act of 2006 (PPA)	Disclosure statement	Made EGTRRA changes permanent, allowed nonspouse beneficiary rollovers from qualified employer-sponsored plans to inherited Traditional IRAs, indexed the income limits for deductible Traditional IRA contributions, and allowed penalty-free distributions for certain military reservists, including recontributions within an extended period of time.
	Tax Relief and Health Care Act of 2006	Disclosure statement	Allowed taxpayers a one-time direct transfer of IRA assets to a health savings account.
2007	Announcement 2007-55	Prototype plan agreement, disclosure statement	A revised Traditional IRA prototype document listing of required modifications (LRMs) was released, which included PPA provisions. Ascensus recommended amending Traditional IRA prototypes.
2008	Heroes Earnings Assistance and Relief Tax Act of 2008	Disclosure statement	Made permanent the PPA provision allowing qualifying reservists to take penalty-free IRA distributions and later recontribute these amounts.
	Emergency Economic Stabilization Act of 2008	Disclosure statement	Extended qualified charitable distributions through 2009, allowed rollovers of Exxon Valdez oil spill litigation payments, expanded tax relief under the Katrina Emergency Tax Relief Act of 2005 to victims of the Midwestern disaster area.
	Worker, Retiree, and Employer Recovery Act of 2008	Disclosure statement	Waived 2009 RMDs for IRA owners and beneficiaries.

## Traditional IRA Amendment List

Year	Tax Act or IRS Pronouncement	Amend	Examples of Changes
2010	Revenue Procedure 2010-48  Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010	Prototype plan agreement, disclosure statement  Disclosure statement	Provided information for amending Traditional IRA prototype documents for updated LRMs, reflecting various law changes since 2002.  Extended qualified charitable distributions through 2011.
2012	FAA Modernization and Reform Act of 2012	Disclosure statement	Allowed certain airline employees to roll over or recharacterize qualified settlement payments to a Traditional IRA.
2013	American Taxpayer Relief Act of 2012	Disclosure statement	Extended qualified charitable distributions through 2013.
2014	IRS Announcement 2014-15  Final qualifying longevity annuity contract regulations (TD 9673)  FAA Modernization and Reform Act of 2012 amendment (P.L. 113-243)  Tax Increase Prevention Act of 2014	Disclosure statement  Disclosure statement  Disclosure statement  No Ascensus document impact	Limited the number of allowable IRA-to-IRA rollovers to one per taxpayer per 12 months, effective for any distributions taken on or after January 1, 2015.  For required minimum distribution calculations, required reducing the IRA's prior year-end value by the value of any qualifying longevity annuity contracts held within the IRA.  Extended the ability for certain airline employees to roll over certain qualified settlement payments to Traditional and Roth IRAs.  Extended qualified charitable distributions through 2014.
2015	Consolidated Appropriations Act of 2016	Disclosure statement	Created the ability for Traditional IRA assets to be rolled over to SIMPLE IRAs after the SIMPLE IRA has been open for 2 years, effective after December 18, 2015.  Made qualified charitable distributions permanent, effective for distributions after December 31, 2014.  Extended the ability for certain airline employees to roll over certain qualified settlement payments to Traditional IRAs.
2016	Revenue Procedure 2016-47	Disclosure statement	Allowed self-certification of missed 60-day rollover deadline if certain requirements are met.
2017	IRS model plan documents updated  Tax Cuts and Jobs Act of 2017	Plan agreement  Disclosure statement	IRS updated language to reflect more recent cost-of-living adjustments.  Eliminated the ability to recharacterize a Roth IRA conversion or employer-sponsored plan-to-Roth IRA-rollover, effective for tax years beginning after December 31, 2017.  For 2017 and 2018, reduced AGI threshold from 10% to 7.5% for penalty exception for qualified medical expenses.
2018	Bipartisan Budget Act of 2018	Disclosure statement	Allowed relief for victims of California wildfires, Hurricanes Harvey and Irma.  Allowed for rollover relief for returns of improper IRS levies.  Extended the 60-day rollover period for plan loan offset amounts due to plan termination or severance from employment.

**NOTE:** Plan agreements must be amended when the IRS updates the model IRA documents and requires organizations to amend to the new version. Disclosure statements also must be updated at the same time. Disclosure statements must be up-to-date for current laws at the time the IRA is opened. When information in the disclosure statement, but not the plan agreement, is modified, it is highly recommended that all existing IRA disclosure statements be amended.



## Roth IRA Amendment List

Year	Tax Act or IRS Pronouncement	Amend	Examples of Changes
1997	Taxpayer Relief Act of 1997		Created Roth IRAs.
1998	<p>Tax Technical Corrections Act of 1998</p> <p>Proposed Roth IRA Regulations (REG 115393-98) Effective 1/1/98</p>	<p>Disclosure statement</p> <p>Disclosure statement</p>	<p>Defined the five-year period (nonexclusion period) required for a qualified distribution.</p> <p>Created the early distribution penalty tax rules applicable to distributions of converted assets within five years of the conversion.</p> <p>Created distribution ordering rules.</p> <p>Changed, effective January 1, 2005, the definition of modified adjusted gross income (MAGI) for purposes of the income limit (\$100,000) for Traditional IRA-to-Roth IRA conversions.</p> <p>Allowed taxpayers to apply four-year ratable taxation for 1998 conversions.</p> <p>Allowed Roth IRA owners to recharacterize Roth IRA contributions as Traditional IRA contributions if done before the tax filing deadline plus extensions.</p> <p>Clarified the \$100,000 income limit for conversion eligibility as applying in the year of distribution.</p> <p>Amended the definition of MAGI for Roth IRAs.</p> <p>Clarified the MAGI phase-out range for Roth IRA regular contributions as \$0 to \$10,000 for married individuals filing a separate return.</p> <p>Provided that for years beginning on or after January 1, 2005, the RMD from a Traditional IRA is not included when determining MAGI for purposes of Roth conversion eligibility.</p> <p>Clarified rules regarding conversions.</p> <p>Detailed procedures for recharacterizing contributions.</p> <p>Clarified qualified distributions and the five-year period for surviving spouse beneficiaries.</p> <p>Verified withholding rules apply to Roth IRA distributions.</p> <p>Addressed the effect of multiple beneficiaries.</p> <p>Clarified RMD issues for beneficiaries of Roth IRAs.</p> <p>Affirmed employer-sponsored Roth IRAs.</p> <p>Verified all conversions are reportable transactions.</p> <p>Introduced redesignating as a means to convert or recharacterize contributions.</p> <p>Provided that aggregate excess contributions not removed from the Roth IRA on or before the IRA owner's tax return due date, plus extensions, becomes Roth IRA contributions for subsequent years.</p>

## Roth IRA Amendment List

Year	Tax Act or IRS Pronouncement	Amend	Examples of Changes
2001	Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)	Amendments anticipated following release of revised model IRS plan agreements	Increased contribution limits. Created catch-up contributions. Expanded portability of assets. Provided for tax credits. Created qualified Roth contribution programs.
2002	Revenue Procedure 2002-10  Final required minimum distribution regulations (TD 8987)  Announcement 2002-49	Plan agreement, disclosure statement  Plan agreement, disclosure statement  Plan agreement, disclosure statement	Provided requirements for amending Roth IRA plan documents for changes because of EGTRRA and final distribution regulations.  Finalized beneficiary distribution options.  Implemented a Uniform Lifetime Table, and updated other life expectancy tables.  Extended deadline to October 1, 2002, for using new documents to establish IRAs.
2004	Additional final RMD regulations (TD 9130)	Annuity endorsement and disclosure statement amending not immediately required, but anticipated upon future IRS guidance	Altered separate accounting rules related to beneficiary subaccounts.
2006	Proposed Treasury regulations REG-146459-05  Katrina Emergency Tax Relief Act of 2005, Gulf Opportunity Zone Act of 2005  Tax Increase Prevention and Reconciliation Act of 2005  Pension Protection Act of 2006 (PPA)  Tax Relief and Health Care Act of 2006	Disclosure statement  Disclosure statement  Disclosure statement  Disclosure statement  Disclosure statement	Allowed designated Roth contributions in 401(k) and 403(b) plans, effective January 1, 2006, to be rolled over to Roth IRAs.  Allowed qualified victims of Hurricanes Rita, Katrina, or Wilma favorable tax treatment for certain distributions and rollovers. Provided exception to the early distribution penalty tax for qualified distributions.  Eliminated the \$100,000 income limitation and married single filer restriction from conversion eligibility requirements, beginning 2010.  Made EGTRRA changes permanent, allowed rollovers from qualified employer-sponsored plans to Roth IRAs by participants and beneficiaries, indexed the income limits for eligibility for Roth contributions, and allowed penalty-free distributions for certain military reservists and the opportunity for recontributions.  Allowed taxpayers a one-time direct transfer of IRA assets to a health savings account.
2007	Announcement 2007-55	Prototype plan agreement, disclosure statement	Required amending prototype-only Roth IRA plan agreements to accept designated Roth account rollovers from 401(k) and 403(b) plans.
2008	Heroes Earnings Assistance and Relief Tax Act of 2008	Disclosure statement	Made permanent the PPA provision allowing qualified reservists to take penalty-free IRA distributions and later recontribute these amounts, and allowed certain military-related death payments to be rolled over tax free to Roth IRAs.



## Roth IRA Amendment List

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2008 (cont.)	Emergency Economic Stabilization Act of 2008	Disclosure statement	Extended qualified charitable distributions through 2009, allowed rollovers of Exxon Valdez oil spill litigation payments, expanded tax relief under the Katrina Emergency Tax Relief Act of 2005 to victims of the Midwestern disaster area.
	Worker, Retiree, and Employer Recovery Act of 2008	Disclosure statement	Waived 2009 RMDs for Roth IRA beneficiaries, and allowed certain airline employees to roll over qualified settlement payments.
2010	Revenue Procedure 2010-48	Prototype plan agreement, disclosure statement	Provided information for amending Roth IRA prototype documents for updated LRMs, reflecting various law changes since 2002.
	Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010	Disclosure statement	Extended qualified charitable distributions through 2011.
2012	FAA Modernization and Reform Act of 2012	Disclosure statement	Allowed certain airline employees to recharacterize to a Traditional IRA certain qualified settlement payments that were rolled over to a Roth IRA.
2013	American Taxpayer Relief Act of 2012	Disclosure statement	Extended qualified charitable distributions through 2013.
2014	IRS Announcement 2014-15	Disclosure statement	Limited the number of allowable IRA-to-IRA rollovers to one per taxpayer per 12 months, effective for any distributions taken on or after January 1, 2015.
	FAA Modernization and Reform Act of 2012 amendment (P.L. 113-243)	Disclosure statement	Extended the ability for certain airline employees to roll over certain qualified settlement payments to Traditional and Roth IRAs.
	Tax Increase Prevention Act of 2014	No Ascensus document impact	Extended qualified charitable distributions through 2014.
2015	Consolidated Appropriations Act of 2016	Disclosure statement	Made qualified charitable distributions permanent, effective for distributions after December 31, 2014.
2016	Revenue Procedure 2016-47	Disclosure statement	Allowed self-certification of missed 60-day rollover deadline if certain requirements are met.
2017	IRS model plan documents updated	Plan agreement	IRS updated language to reflect more recent cost-of-living adjustments.
	Tax Cuts and Jobs Act of 2017	Disclosure statement	Eliminated the ability to recharacterize a Roth IRA conversion or employer-sponsored plan-to-Roth IRA-rollover, effective for tax years beginning after December 31, 2017.  For 2017 and 2018, reduced AGI threshold from 10% to 7.5% for penalty exception for qualified medical expenses.
2018	Bipartisan Budget Act of 2018	Disclosure statement	Allowed relief for victims of California wildfires, Hurricanes Harvey and Irma.  Allowed for rollover relief for returns of improper IRS levies.  Extended the 60-day rollover period for plan loan offset amounts due to plan termination or severance from employment.

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