

**WHEN TO USE THIS FORM**

Use this form to:

- ◆ Request the return of a contribution (including excess contributions) plus net income before the due date of your tax return
- ◆ Request the distribution of excess contributions after the due date of your tax return

Do not use this form to recharacterize a contribution or to request a distribution other than a return of contributions.

**INFORMATION ABOUT THE RETURN OF CERTAIN CONTRIBUTIONS FROM AN IRA**

In general, any distribution from an IRA is taxable, that is, it must be included in the individual's gross income in accordance Section 72 of the Internal Revenue Code. However, under the code, distributions are not taxable to the extent they constitute the return contributions under certain limited conditions.

**What contributions may be returned without being taxable?**

- ◆ Contributions, including but not limited to Excess Contributions, returned by the due date for filing the individual's tax return [under IRC §408(d)(4)]
- ◆ Certain Excess Contributions returned after the due date for filing the individual's tax return [under IRC §408(d)(5)]

**What is an Excess Contribution?**

- ◆ A contribution **for a year** that exceeds the lesser of
  - ◆ The dollar limitation under IRC §219 (\$5,000 for 2010 and 2011; \$6,000 for individuals age 50 or older)
  - ◆ 100% of compensation
- ◆ The amount of the contribution to a Roth IRA that exceeds the maximum amount allowable based on the individual's modified adjusted gross income (MAGI)
- ◆ A contribution to a Traditional IRA after age 70 ½
- ◆ A contribution to an inherited IRA

Excess Contributions may occur for various reasons, including improper rollovers, underestimating compensation for the year, or inadvertent over-contributing when an individual has multiple IRAs or forgets to keep track of contributions made throughout the year.

**Is there a penalty for making an Excess Contribution?**

Yes. If the Excess Contribution is not corrected timely, you must pay a 6% excise tax for each year that the Excess Contribution remains uncorrected.

**How do I correct an Excess Contribution?**

There are three methods for correcting an Excess Contribution:

- ◆ **METHOD 1** - DISTRIBUTION OF CONTRIBUTIONS BEFORE THE DUE DATE OF TAX RETURN
- ◆ **METHOD 2** - DISTRIBUTION OF EXCESS CONTRIBUTIONS AFTER THE DUE DATE OF TAX RETURN
- ◆ **METHOD 3** - TREAT SOME OR ALL OF THE EXCESS CONTRIBUTION AS CONTRIBUTION FOR A SUBSEQUENT YEAR

**For purposes of Method 1 and Method 2, what is the due date of the tax return? Does this include extensions?**

The due date of the tax return refers to the due date, including extensions, for filing the individual's tax return for the year **in which the contribution was made**, not the year for which the contribution was made. In addition, if the individual's tax return was filed on time, there is a six-month extension of time to make the correction. This means that most people would have until October 15 of the year after the contribution was made to make the correction.

**How are the corrections made under the various methods?****METHOD 1 - DISTRIBUTION OF CONTRIBUTIONS BEFORE THE DUE DATE OF TAX RETURN**

Under Method 1 [IRC §408(d)(4)],

- ◆ The contribution must be distributed (returned) before the due date for filing the individual's tax return, including extensions, for the year **in which** the contribution was made (not the year for which it was made).
- ◆ No deduction is taken for the contribution.
- ◆ **Net earnings** attributed to the contribution **are also distributed** to the individual
- ◆ The distribution of the contribution is not taxable
- ◆ The net earnings distributed are treated as a taxable distribution in the year **in which** the contribution was made.
- ◆ The 6% excise tax does not apply.
- ◆ The excess amount is treated as an amount not contributed.

If an excess contribution is not corrected timely under Method 1, the individual may still be able to correct the excess contribution under Method 2 or Method 3, but the 6% penalty will apply.

**NOTE:** Method 1 may also be used to return an allowable but unwanted contribution.

**METHOD 2 - DISTRIBUTION OF EXCESS CONTRIBUTIONS AFTER THE DUE DATE OF TAX RETURN**

Under Method 2,

- ◆ The distribution is made after the due date for filing the individual's tax return for the year **in which** the contribution was made.
- ◆ Net earnings on the excess contribution are not required to be distributed
- ◆ The distribution is taxed in the same manner as any other distribution, unless the conditions of IRC §408(d)(5) are met.
- ◆ An additional (excise) tax of 6% of the excess contribution will be imposed for every year that the excess contribution remains uncorrected.
- ◆ The individual must file Form 5329 for each year that the 6% excise tax applies.
- ◆ The 6% excise tax does not apply for the year if the excess contribution is removed by December 31.

**METHOD 3 – TREAT SOME OR ALL OF THE EXCESS CONTRIBUTION AS CONTRIBUTION FOR A SUBSEQUENT YEAR**

Under Method 3

- ◆ The individual does not need to notify the IRA custodian
- ◆ The Excess Contribution is not removed from the IRA
- ◆ The Excess Contribution is applied to subsequent years until there is no Excess Contribution
- ◆ The 6% excise tax continues to apply until there is no Excess Contribution
- ◆ The individual must file Form 5329 for each year that the 6% excise tax applies

**What are the special conditions under IRC §408(d)(5) and what special tax treatment is provided for the return of Excess Contributions after the due date of the tax return?**

Under [IRC §408(d)(5)],

- ◆ The distribution of the contribution is not taxable if
  - ◆ The distribution of the Excess Contribution is made after the due date for filing the individual's tax return for the year **in which** the contribution was made
  - ◆ The total of all contributions to the individual's IRAs **for the year** do not exceed the dollar limitation under IRC §219 (see above). If employer contributions are made under a Simplified Employee Pension (SEP) arrangement, this limit is increased by the lesser of the amount of the SEP contributions or the dollar limitation under IRC §415(c)(1)(A).
  - ◆ No deduction is allowable for the excess contribution. The deductibility is determined without regard to the reduced limits if the individual or the individual's spouse is an active participant in an employer retirement plan.

- ◆ Net earnings on the excess contribution are not required to be distributed
- ◆ Nondeductible contributions, including Roth IRA contributions may not be removed under this method.
- ◆ An additional (excise) tax of 6% of the excess contribution will be imposed for every year that the excess contribution remains uncorrected
- ◆ The individual must file Form 5329 for each year that the 6% excise tax applies
- ◆ The 6% excise tax does not apply for the year if the excess contribution is removed by December 31.

### **How does the IRA custodian report the return of a contribution?**

Under Method 1,

- ◆ The IRA custodian reports the distribution on Form 1099-R, showing the gross distribution in Box 1, the net earnings in Box 2a and either 8 or P in Box 7. An 8 indicates that the earnings are taxable in the current year and a P indicates that they are taxable in the prior year. Box 7 will also include a code 1 if the individual is under age 59½.
- ◆ If a 1 is also coded in Box 7, the net earnings distributed are also subject to the 10% excise tax for early distribution.

Under Method 2,

- ◆ The IRA custodian reports the distribution on Form 1099-R, showing the gross distribution in Box 1, a blank in Box 2a, Taxable Amount not Determined in Box 2b and either 1 or 7 in Box 7, depending on the individual's age.
- ◆ If a 1 is also coded in Box 7, the taxable portion of the distribution will be subject to the 10% excise tax for early distribution.

### **How do I report the return of a contribution?**

You must report the distribution on the appropriate line of your tax return. For example, if you file Form 1040 for 2010, you would report the distribution on Line 15. You may also be required to attach a statement of explanation. You should consult with your CPA or other tax advisor.

### **Are there any forms that must be filed in addition to the 1040?**

Possibly. As mentioned above, you may also need to file Form 5329 to report the 6% excise tax. In addition, you may need to file Form 8606 Nondeductible IRAs. You should consult with your CPA or other tax advisor.

### **Where can I find more information about the return of contributions?**

- ◆ IRS Publication 590
- ◆ Form 5329 and Instructions
- ◆ Form 8606 and Instructions
- ◆ Form 1099-R and Instructions

(LIBERTY TRUST COMPANY ACCOUNT NUMBER)

FOR PROCESSING, RETURN TO: IPS ♦ 8226 Douglas Avenue ♦ Suite 520 ♦ Dallas, Texas 75225-5927 ♦ 800-473-1977 ♦ 855-739-1987 FAX

**1 ACCOUNT OWNER INFORMATION**

Type of Account: <input type="checkbox"/> Traditional <input type="checkbox"/> Roth <input type="checkbox"/> SEP	Soc. Sec. Number:
Legal Name:	Daytime Phone:
Address:	Email Address:
City, State, Zip:	Date of Birth:

**2 DEFINITION OF 408(d)(4) DEADLINE**

For purposes of this form the 408(d)(4) Deadline means the due date for filing my tax return (including extensions) for the year in which a contribution was made or within six months of the filing due date if I did not extend the due date but filed timely.

**3 REASON FOR RETURN**

- Return of unwanted contribution before 408(d)(4) deadline – Use Method 1
- Return of Excess Contribution before 408(d)(4) deadline – Use Method 1
- Distribution of Excess Contribution after 408(d)(4) – Use Method 2 or Method 3

**4 METHOD OF CORRECTION**

**Method 1: Return of contribution before 408(d)(4) deadline**

I am requesting the return of an unwanted contribution or correcting an Excess Contribution, as indicated above, before the 408(d)(4) deadline, as defined above. I understand that the total amount that will be distributed to me will be the amount of the contribution plus the net earnings attributable to the contribution. I also understand that the return of the contribution is not taxable but the earnings attributable to the contribution are taxable and may be subject to a 10% excise tax if I am under age 59 ½.

Tax year for which (excess) contribution was made \_\_\_\_\_

Date that (excess) contribution was made \* \_\_\_\_\_

Amount of (excess) contribution being returned                      \$ \_\_\_\_\_

Earnings attributable to (excess) contribution

- The entire (excess) contribution was made to this IRA with Liberty Trust Company, Ltd. ("LTC"). I direct IPS to calculate the earnings attributable the (excess) contribution.
- The entire (excess) contribution was not made to this IRA with Liberty Trust Company, Ltd. ("LTC"). I have determined that the earnings attributable to the (excess) contribution are \$ \_\_\_\_\_ .

\*(If made in a series of deposits, enter date of first contribution that is part of the amount being returned).

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**METHOD OF CORRECTION (CONTINUED)**

**Method 2: Distribution of Excess Contribution after 408(d)(4) deadline**

I am correcting one or more Excess Contributions after the 408(d)(4) deadline, as defined above. I understand that this method is not available for the return of nondeductible contributions, including Roth IRA contributions. I understand that (1) this correction may be a taxable event, (2) I will receive a Form 1099-R reporting the full distribution, (3) it is my responsibility to determine and report the taxable portion on my tax return, (4) the taxable portion may be subject to a 10% excise tax if I am under age 59 ½, and (5) the IRS imposes a 6% excise tax for each year that the excess contribution remains uncorrected.

Amount of (excess) contribution being returned \$ \_\_\_\_\_

For your records, you may wish to record the dates and amounts below

Tax year	Excess Contribution
_____	_____
_____	_____
_____	_____

**Method 3: Carryover of Excess Contribution after 408(d)(4) deadline**

**FOR YOUR RECORDS ONLY**

**DO NOT RETURN THIS FORM TO LIBERTY TRUST COMPANY IF YOU CHOOSE THIS METHOD**

I am correcting one or more Excess Contributions after the 408(d)(4) deadline by applying the Excess Contribution(s) as a contribution to one or more subsequent tax years until the entire Excess Contribution(s) has been eliminated. I understand the IRS imposes a 6% excise tax for each year that the excess contribution remains uncorrected.

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**MANNER OF DISTRIBUTION**

Make my distribution in the following manner:

- CASH. Distribute the entire amount from the available cash in my account
- IN-KIND. Distribute the entire amount by means of an in-kind distribution of the assets identified below
- CASH and IN-KIND. Distribute the entire amount as follows
  - \$ \_\_\_\_\_ from the cash in my account and
  - \$ \_\_\_\_\_ as an in-kind distribution from the assets identified below

<u>Name</u>	<u>Unit Price</u>	<u>Name</u>	<u>Unit Price</u>

**IMPORTANT INFORMATION REGARDING IN-KIND DISTRIBUTIONS:** Please be aware that an in-kind distribution may take longer to complete than a cash distribution. If an in-kind distribution is being made, you will need to identify the assets to be distributed above. Additional forms will be required to transfer ownership to you from the IRA. We (Liberty Trust Company) will charge a re-registration fee for the in-kind distribution. In addition, there may be fees charged by third parties, such as the investment sponsor, escrow agent or transfer agent.

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**DELIVERY INSTRUCTIONS**

- Send by Check, regular mail (Default)
- Send by Check, overnight delivery (\$35 Fee)
- Send by Wire (\$25 Fee)

Wiring instructions:

**Bank Name:** \_\_\_\_\_  
**ABA/Routing Number:** \_\_\_\_\_  
**Account Name:** \_\_\_\_\_  
**Account Number:** \_\_\_\_\_  
**Account Address:** \_\_\_\_\_  
 \_\_\_\_\_

- Send to Account Owner at address above (Default)
- Send to the following address:

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
 \_\_\_\_\_  
**Phone:** \_\_\_\_\_

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**NOTICE OF WITHHOLDING**

Internal Revenue Service regulations require that this notice be given to your each time you request a distribution from your IRA. The distributions you receive from your IRA are subject to Federal Income Tax withholding, unless your elect not to have withholding apply. Although you may elect not to have income taxes withheld, you will still be liable for payment of any Federal Income Tax due on distributions from your IRA. If you elect not to have income tax withheld from your distribution, or if you do not have enough federal income tax withheld, you may be responsible for payment of estimated tax. In addition, you may incur penalties under the estimated tax payment rules if your withholding and estimated tax payments are not sufficient.

You should consult with your accountant, tax attorney or other tax advisor regarding your election of Federal Income Tax Withholding in Section 8 below. If you do not make an election, Federal Income Taxes will be withheld at a rate of 10%.

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**INCOME TAX WITHHOLDING ELECTION**

Choose one. If no election is made, 10% will be withheld from the distribution.

- I **DO NOT** want Federal Income Tax withheld from my distribution.
- Withhold 10% for Federal Income Taxes from my distribution
- Withhold \_\_\_\_\_ % (minimum 10%)
- Withhold \$ \_\_\_\_\_ for Federal Income Taxes from my distribution.

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**SIGNATURE**

I certify that I am the IRA Account Owner, the beneficiary, or individual legally authorized to complete this form. I certify the accuracy of the information set forth in this form, and I authorize this transaction. I understand Liberty Trust Company, Ltd. may require additional documents before processing any distributions. I understand that I am responsible for any consequences resulting from this distribution including taxes and penalties owed. I indemnify and hold Liberty Trust Company, Ltd. and IRA Plus Southwest, LLC harmless from any resulting liabilities. I acknowledge that neither IRA Plus Southwest, LLC nor Liberty Trust Company, Ltd. has provided me with legal or tax advice.

**Signature:** **X** \_\_\_\_\_ **Date:** **X** \_\_\_\_\_