

WHEN TO USE THIS FORM

Use this form to request the return of an Excess Simplified Employee Pension ("SEP") Contribution to the employer under the Employee Plans Compliance Resolution System ("EPCRS").

Do not use this form to correct an Excess IRA Contribution that is a result of the application IRC §402(h)(2). The affected participant should request the return by using the Return of Excess IRA Contribution form. Do not use this form to retain the Excess SEP contribution in the participant's IRA pursuant to EPCRS. The employer must submit a VCP filing to the IRS to utilize this option.

The employer and the affected participant should consult with a CPA or other tax professional concerning the correction of an Excess SEP Contribution.

INFORMATION ABOUT EXCESS SEP CONTRIBUTIONS

Under Internal Revenue Code §402(h)(2), if a SEP contribution made by the employer to an employee's IRA exceeds the lesser of 25% of the employee's compensation or the dollar limit under §415(c)(1)(A) [\$49,000 for 2010 and 2011], the excess amount is treated as distributed or made available to the employee and recontributed to the IRA. This means that the excess contribution is included in the employee's income from the employer. In addition, the resulting IRA contribution may create an excess IRA contribution for the employee, subjecting the employee to the 6% excise tax on the excess IRA contribution until it is corrected.

The IRS has provided alternatives to §402(h)(2) that permit the excess contribution to be returned to the employer or to be retained in the employee's IRA and applied to later years' allocations of contributions. These alternatives are explained in Revenue Procedure 2008-50 and the IRS SEP Fix-It Guide.

Are the earnings attributable to the Excess SEP Contribution returned to the employer also?

Yes.

What if the value of the employee's IRA has gone down since the contribution was made to it?

In that case, the net income attributable to the Excess SEP Contribution would be negative (i.e., a loss). Consequently, the amount returned to the employer would be less than the amount originally contributed to the IRA on behalf of the employee.

How is the returned Excess SEP Contribution reported?

The employer is not entitled to a deduction for the Excess SEP Contribution. The distribution will be reported on Form 1099-R issued to the employee indicating that the taxable amount is zero.

Where can I find more information about Excess SEP Contributions?

- ◆ Revenue Procedure 2008-50
- ◆ IRS SEP Fix-It Guide
- ◆ Form 5305-SEP and Instructions
- ◆ IRS Publication 560
- ◆ IRS Publication 590
- ◆ Internal Revenue Code §408(k) and §402(h)

**RETURN OF EXCESS
SEP CONTRIBUTION**

(LIBERTY TRUST COMPANY ACCOUNT NUMBER)

FOR PROCESSING, RETURN TO: IPS ♦ 8226 Douglas Avenue ♦ Suite 520 ♦ Dallas, Texas 75225-5927 ♦ 800-473-1977 ♦ 214-739-1987 FAX

| | | |
|----------|---|-------------------------|
| 1 | ACCOUNT OWNER / PARTICIPANT INFORMATION | |
| | Type of Account: <input type="checkbox"/> Traditional <input type="checkbox"/> SEP | Soc. Sec. Number: |
| | Legal Name: | Daytime Phone: |
| | Address: | Email Address: |
| | City, State, Zip: | Date of Birth: |
| 2 | EMPLOYER / PLAN SPONSOR | |
| | Name of Employer / Plan Sponsor: | Employer Tax-ID Number: |
| | Employer Representative: | Daytime Phone: |
| | Address: | City, State, Zip: |
| | Email Address: | Fax Number: |
| 3 | REASON FOR RETURN | |
| | <p>The employer ("Plan Sponsor") identified above sponsors a Simplified Employee Pension ("SEP") for the benefit of its employees. Plan Participants are not permitted to contribute to the SEP. The Participant identified above is a Participant in the SEP. The Plan Sponsor has made an Excess SEP Contribution by contributing an amount in excess of the amount that the Participant was entitled to under the terms of the SEP. Under the provisions of Internal Revenue Code §402(h)(2), the Excess SEP Contribution would be included in the Participant's income and treated as an annual IRA contribution to Participant's IRA. The Plan Sponsor wishes instead to have this Excess SEP Contribution returned to the employer.</p> | |
| 4 | METHOD OF CORRECTION | |
| | <input type="checkbox"/> The Employer has elected to distribute the Excess SEP Contribution to the employer, adjusted for earnings through the date of correction, in accordance with the Employee Plans Compliance Resolution System ("EPCRS"). | |
| | Tax year for which Excess SEP Contribution was made | _____ |
| | Date that Excess SEP Contribution was made * | _____ |
| | Amount of Excess SEP Contribution being returned | \$ _____ |
| | Earnings attributable to Excess SEP Contribution | |
| | <input type="checkbox"/> The entire Excess SEP Contribution was made to this IRA with Liberty Trust Company, Ltd. ("LTC"). I direct IPS to calculate the earnings attributable the Excess SEP Contribution. | |
| | <input type="checkbox"/> The entire Excess SEP Contribution was not made to this IRA with Liberty Trust Company, Ltd. ("LTC"). I have determined that the earnings attributable to the Excess SEP Contribution are \$ _____. | |
| | <small>*(If made in a series of deposits, enter date of first contribution that is part of the amount being returned).</small> | |

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MANNER OF DISTRIBUTION

Make the 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, Ltd.) 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 Employer / Plan Sponsor at address above (Default)

- Send to the following address:

Name: _____

Address: _____

Phone: _____

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SIGNATURE OF EMPLOYER / PLAN SPONSOR

I certify that I am an officer of the Employer/Plan Sponsor identified above. I certify that the information in this request is true and accurate and that this request is being made in accordance with EPCRS. I agree to hold harmless and indemnify Liberty Trust Company, Ltd. and IRA Plus Southwest, LLC from any liabilities resulting from the execution of this request at the direction of the Employer/Plan Sponsor and the Participant.

Signature: **X** _____ Date: **X** _____
Signature of Employer / Plan Sponsor

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SIGNATURE OF ACCOUNT OWNER

I certify that I am a Participant in the SEP sponsored by the employer identified above and that the employer has informed me of the Excess SEP Contribution made to my IRA and of the employer's intention to have the Excess SEP Contribution returned to the employer.

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** _____
Signature of Account Owner