

# 2015

CASH FROM QDRO ACCOUNT - NO 10% PENALTY,

IRA DOES NOT APPLY.



Department of the Treasury  
Internal Revenue Service

## Instructions for Form 5329

### Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts

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

#### General Instructions

#### Future Developments

For the latest information about developments related to Form 5329 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/form5329](http://www.irs.gov/form5329).

#### What's New

**ABLE accounts.** Part II was revised to include the tax on the amount of any distribution from an ABLE account that is included in the gross income of the distributee. Also, new Part VIII was added to reflect the tax on excess contributions to an ABLE account. For more information on ABLE accounts, see Pub. 907, Tax Highlights for Persons with Disabilities.

#### Purpose of Form

Use Form 5329 to report additional taxes on:

- IRAs,
- Other qualified retirement plans,
- Modified endowment contracts,
- Coverdell ESAs,
- QTPs,
- Archer MSAs,
- HSAs, or
- ABLE accounts.

#### Who Must File

You must file Form 5329 if any of the following apply.

- You received an early distribution from a Roth IRA, the amount on line 23 of Form 8606, Nondeductible IRAs, is more than zero, and you are required to enter an amount that is more than zero on Form 5329, line 1 (see *Distributions from Roth IRAs*, later).
- You received an early distribution subject to the tax on early distributions from a qualified retirement plan (other than a Roth IRA). However, if distribution code 1 is correctly shown in box 7 of all your Forms 1099-R, and you owe the additional tax on each Form 1099-R, you do not have to file Form 5329. Instead, see the instructions for

Form 1040, line 59, or Form 1040NR, line 57, for how to report the 10% additional tax directly on that line.

- You received an early distribution subject to the tax on early distributions from a qualified retirement plan (other than a Roth IRA), you meet an **exception** to the tax on early distributions from the list shown later, and distribution code 1 is shown in box 7 of Form 1099-R.
- You received an early distribution subject to the tax on early distributions from a qualified retirement plan (other than a Roth IRA), you meet an **exception** to the tax on early distributions from the list shown later, but box 7 of your Form 1099-R does not indicate an exception or the exception does not apply to the entire distribution.
- You received taxable distributions from Coverdell ESAs, QTPs, or ABLE accounts.
- The contributions for 2015 to your traditional IRAs, Roth IRAs, Coverdell ESAs, Archer MSAs, HSAs, or ABLE accounts exceed your maximum contribution limit, or you had a tax due from an excess contribution on line 17, 25, 33, 41, or 49 of your 2014 Form 5329.
- You did not receive the minimum required distribution from your qualified retirement plan. This also includes trusts and estates that did not receive this amount.



**TIP** If you rolled over part or all of a distribution from a qualified retirement plan, the part rolled over is not subject to the 10% additional tax on early distributions. See the instructions for Form 1040, lines 15a and 15b or lines 16a and 16b; Form 1040A, lines 11a and 11b or 12a and 12b; or Form 1040NR, lines 16a and 16b or 17a and 17b, for how to report the rollover.

#### When and Where To File

File Form 5329 with your 2015 Form 1040 or Form 1040NR by the due date, including extensions, of your Form 1040 or Form 1040NR.

If you do not have to file a 2015 income tax return, complete and file

Form 5329 by itself at the time and place you would be required to file Form 1040 or Form 1040NR. Be sure to include your address on page 1 of the form and your signature and the date on page 2 of the form. Enclose, but do not attach, a check or money order payable to "United States Treasury" for any taxes due. Write your SSN and "2015 Form 5329" on the check. For information on other payment options, including credit or debit card payments, see the instructions for Form 1040 or Form 1040NR, or go to IRS.gov.

**Prior tax years.** If you are filing Form 5329 for a prior year, you must use the prior year's version of the form. If you do not have any other changes and have not previously filed a federal income tax return for the prior year, file the prior year's version of Form 5329 by itself (discussed earlier). If you have other changes, file Form 5329 for the prior year with Form 1040X, Amended U.S. Individual Income Tax Return.

#### Definitions

**Qualified retirement plan.** A qualified retirement plan includes:

- A qualified pension, profit-sharing, or stock bonus plan (including a 401(k) plan),
- A tax-sheltered annuity contract,
- A qualified annuity plan, and
- An IRA.

**Note.** Modified endowment contracts are not qualified retirement plans.

**Traditional IRAs.** For purposes of Form 5329, a traditional IRA is any IRA, including a simplified employee pension (SEP) IRA, other than a SIMPLE IRA or Roth IRA.

**Early distribution.** Generally, any distribution from your IRA, other qualified retirement plan, or modified endowment contract before you reach age 59½ is an early distribution.

**Qualified retirement plan or in-plan Roth rollover.** Generally, a rollover is a tax-free distribution of assets from one qualified retirement plan that is reinvested in another plan or the same plan. Generally, you must complete the rollover within 60 days of receiving the

**No. Exception**

- 01 Qualified retirement plan distributions (does not apply to IRAs) you receive after separation from service when the separation from service occurs in or after the year you reach age 55 (age 50 for qualified public safety employees).
- 02 Distributions made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from an employer plan, payments must begin after separation from service).
- 03 Distributions due to total and permanent disability. You are considered disabled if you can furnish proof that you cannot do any substantial gainful activity because of your physical or mental condition. A medical determination that your condition can be expected to result in death or to be of long, continued, and indefinite duration must be made.
- 04 Distributions due to death (does not apply to modified endowment contracts).
- 05 Qualified retirement plan distributions up to the amount you paid for unreimbursed medical expenses during the year **minus** 10% (or 7.5% if you or your spouse were born before January 2, 1951) of your adjusted gross income (AGI) for the year.
- \* { 06 Qualified retirement plan distributions made to an alternate payee under a qualified domestic relations order (does not apply to IRAs).
- 07 IRA distributions made to certain unemployed individuals for health insurance premiums.
- 08 IRA distributions made for qualified higher education expenses.
- 09 IRA distributions made for the purchase of a first home, up to \$10,000.
- 10 Qualified retirement plan distributions made due to an IRS levy.
- 11 Qualified distributions to reservists while serving on active duty for at least 180 days.
- 12 Other (see *Other* next). Also, enter this code if more than one exception applies.

**Other.** The following exceptions also apply.

- Distributions incorrectly indicated as early distributions by code 1, J, or S in box 7 of Form 1099-R. Include on line 2 the amount you received when you were age 59½ or older.
- Distributions from a section 457 plan, which are not from a rollover from a qualified retirement plan.
- Distributions from a plan maintained by an employer if:
  1. You separated from service by March 1, 1986;
  2. As of March 1, 1986, your entire interest was in pay status under a written election that provides a specific schedule for the distribution of your entire interest; and
  3. The distribution is actually being made under the written election.
- Distributions that are dividends paid with respect to stock described in section 404(k).
- Distributions from annuity contracts to the extent that the distributions are allocable to the investment in the contract before August 14, 1982. For additional exceptions that apply to annuities, see *Tax on Early Distributions under Special Additional Taxes* in Pub. 575.
- Distributions that are phased retirement annuity payments made to federal employees. See Pub. 721 for more information on the phased retirement program.

**Line 4**

If any amount on line 3 was a distribution from a SIMPLE IRA received within 2 years from the date you first participated in the SIMPLE IRA plan, you must multiply that amount by 25% instead of 10%. These distributions are included in boxes 1 and 2a of Form 1099-R and are designated with code S in box 7.

**Part II—Additional Tax on Certain Distributions From Education Accounts and ABLÉ Accounts**

**Line 5**

Distributions from an ABLÉ account are not included in income if made on or after the death of the designated beneficiary:

- to the estate of the designated beneficiary,
- to an heir or legatee of the designated beneficiary, or

- to pay outstanding obligations due for qualified disability expenses of the designated beneficiary, including a claim filed by a State under a State Medicaid plan.

**Line 6**

The additional tax does not apply to the distributions that are includible in income described next. Enter on line 6 the amount from line 5 that you can exclude.

- Distributions made due to the death or disability of the beneficiary.
- Distributions from an education account made on account of a tax-free scholarship, allowance, or payment described in section 25A(g)(2).
- Distributions from an education account made because of attendance by the beneficiary at a U.S. military academy. This exception applies only to the extent that the distribution does not exceed the costs of advanced education (as defined in title 10 of the U.S. Code) at the academy.
- Distributions from an education account included in income because you used the qualified education expenses to figure the American opportunity and lifetime learning credits.

**Part III—Additional Tax on Excess Contributions to Traditional IRAs**

If you contributed more for 2015 than is allowable or you had an amount on line 17 of your 2014 Form 5329, you may owe this tax. But you may be able to avoid the tax on any 2015 excess contributions (see the instructions for [line 15](#), later).

**Line 9**

Enter the amount from line 16 of your 2014 Form 5329 only if the amount on line 17 of your 2014 Form 5329 is more than zero.

**Line 10**

Enter the difference, if any, of your contribution limit for traditional IRAs less your contributions to traditional IRAs and Roth IRAs for 2015.

If you are not married filing jointly, your contribution limit for traditional IRAs is the smaller of your taxable compensation (defined earlier) or \$5,500 (\$6,500 if age 50 or older at the end of 2015). If you are married filing jointly, your contribution limit is generally \$5,500 (\$6,500 if age 50 or older at the end of 2015) and your spouse's contribution limit is \$5,500 (\$6,500 if age 50 or older at the end of 2015). But