

CPE CREDIT SERVICE

Birthday Tax Planning

By Sidney Kess and Barbara Weltman

CCH INCORPORATED
4025 W. Peterson Ave.
Chicago, IL 60646-6085
1-800-449-8114
<http://tax.cchgroup.com>



This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service and that the authors are not offering such advice in this publication. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

© 2003, **CCH INCORPORATED**
4025 W. Peterson Ave.
Chicago, IL 60646-6085
1-800-449-8114
<http://tax.cchgroup.com>

No claim is made to original government works; however, within this Product or Publication, the following are subject to CCH's copyright: (1) the gathering, compilation, and arrangement of such government materials; (2) the magnetic translation and digital conversion of data, if applicable; (3) the historical, statutory and other notes and references; and (4) the commentary and other materials.

All Rights Reserved
Printed in the United States of America



CCH CPE CREDIT SERVICE

Study Guide/Quizzer

INTRODUCTION

This CPE course, developed by noted tax authorities Sidney Kess and Barbara Weltman, provides you with an overview of recent tax developments. This series reviews what is happening or is about to happen on the tax scene and highlights planning tips and techniques to help you in your practice. Citations to CCH's FEDERAL TAX GUIDE REPORTS® (FTG), STANDARD FEDERAL TAX REPORTS® (FED) and FEDERAL TAX SERVICE (FTS) are provided to assist you in locating information for further review. More importantly, however, a Quizzer is contained in the back of the course and can be completed for CPE credit.

When you have a thorough understanding of the material contained in this course, answer the Quizzer questions. Mail or fax your completed answer sheet (**photocopies are acceptable for this program**) to CCH INCORPORATED, **Continuing Education Department** for grading. Successful completion of the Quizzer should qualify you for **two hours** of continuing education credit. See the Quizzer instructions on page 30 for complete details.

Please note that CCH's **CPE CREDIT SERVICE** is mailed to CCH federal tax subscribers. Should you be a subscriber to several services, you will receive multiple copies of this month's **CPE CREDIT SERVICE**. Since the information is identical, please be advised that only one of these courses can be completed for continuing professional education credit.

Please see page 36 for the CCH CPE course spotlight on our Individual Income Tax Refresher Course (2003 Edition).

Starting with this issue of the CPE CREDIT SERVICE, we are incorporating the Study Questions within the Focus section of this course.



January 2003

CCH CPE CREDIT SERVICE**Table of Contents**

	PAGE
I. FOCUS: TAX-RELATED BIRTHDAYS	
A. Introduction	6
B. Childhood.....	6
C. Middle Age.....	10
D. Seniors.....	13
II. PRACTICE MANAGEMENT TIP: ACCESSING TAX INFORMATION ON THE INTERNET	
A. Introduction	16
B. Free Primary Source Material.....	16
C. Modestly-Priced Material	17
III. RECENT DEVELOPMENTS	
A. Travel and Entertainment Developments	17
B. Social Security-Related Developments	19
C. Retirement Plan Developments	21
D. Developments Affecting Attorneys and Accountants.....	25
E. New IRS Telephone Numbers.....	27
F. IRS Interest Rates.....	27
CONCLUSION	27
ANSWERS TO STUDY QUESTIONS.....	28
CPE QUIZZER	30
CCH CPE COURSE SPOTLIGHT.....	36
EVALUATION.....	37



CCH CPE CREDIT SERVICE

This course material is designed to be used in conjunction with your CCH reporters. We refer you to the specific paragraphs in the reporters where each subject is covered in greater detail.

FTG paragraph (¶) numbers refer to the FEDERAL TAX GUIDE®. FED paragraph (¶) numbers refer to the STANDARD FEDERAL TAX REPORTS®.

In this edition of the CPE CREDIT SERVICE, we will focus on birthday tax planning—special rules that are geared for a taxpayer's particular birthday. Taxpayers face a number of challenges and opportunities when they attain a certain age and we will tell you these triggering dates and what planning opportunities they present.

We will also provide those of you who are tax practitioners with a practice management tip.

Further, we will tell you about important cases, regulations, rulings and other IRS pronouncements that can be useful for your clients and help you in your practice or business.

Finally, we will remind you of key filing deadlines that are coming up.



I. FOCUS: TAX-RELATED BIRTHDAYS

A. Introduction

The focus of this edition of the CPE CREDIT SERVICE is on birthday tax planning. A great number of tax rules are geared to a taxpayer's age. It's important to recognize these triggering events and to know how to take advantage of opportunities that may be connected with these dates. We will divide the dates into three main categories of taxpayers—children, middle-agers and seniors. We want to point out that age generally is fixed as of the last day of the year. However, there are certain exceptions that we will note for you.

Study Question 1

"Age" for purposes of *all* thresholds and restrictions in the Tax Code is determined as of the last day of the year. *True or False?*

B. Childhood

First we will discuss some key birthdays for children and what tax impact those dates can have. With respect to children, a certain birthday means that they are no longer treated as children for purposes of a particular tax rule, even though they continue to be children in every other respect.

The first tax threshold is birth. A newborn can be claimed as a parent's dependent for the entire year if he or she is born before midnight on December 31. Thus, if a child is born on December 31, 2002, the parent can claim a dependency exemption for 2002—it need not be prorated for the portion of the year that the child was alive.

Planning Pointer. In order to claim a dependency exemption and other tax benefits, the parent must obtain a Social Security number for the child. In the past, this requirement did not apply until the child's first birthday or even later. Of course, as a practical matter, hospitals now provide the parent with the forms before discharge, allowing the parent to complete them as soon as possible.

The second tax threshold is age 13 and it applies for purposes of the dependent care credit (Code Sec. 21(b)(1)(A)). Once a child has attained this age by the end of the year, no credit can be claimed—even for the portion of the year that the child was under age 13. In view of the increased limits for this tax credit in 2003, the loss of the credit once the child attains age 13 can be a hardship in light of the continued need to pay for a sitter or other child-care expenses.

Planning Pointer: The age limit for the dependent care credit does not apply to a child who is physically or mentally incapable of self-care

Study Question 2

Harry is a single parent who pays a housekeeper to care for his daughter so that he can work. On May 1, 2003, Harry's daughter has her 13th birthday. Harry can claim a dependent care credit for the expenses incurred before May 1, 2003. *True or False?*

Another tax threshold is age 14. This key date is used to determine applicability of the kiddie tax. The kiddie tax applies to the unearned income of a child who is under age 14 by the end of the year. More specifically, the tax applies to unearned income over \$1,500 in 2003 – such income is taxed at the parent's highest marginal rate.

But once the child attains this age, none of the earned income for the year is subject to the kiddie tax. Because of the adverse impact of the kiddie tax, tax planning should be used to minimize earned income before age 14. Some ways to do this include:

- ◆ Investing in growth stocks since appreciation isn't taxed until the stocks are sold.
- ◆ Buying savings bonds, series EE or I, where the tax on accrued interest can be deferred until the bonds are cashed in or until they mature.

Planning Pointer: Once the child attains age 14, a change of accounting can be made to report the interest, including all accrued interest to date, on an annual basis. This makes sense where the child has little or no other income so that the interest is effectively tax free or taxed at the 10% rate.

The next age threshold is 17. This is the age used to determine eligibility to claim the child tax credit, which is up to a maximum of \$600 in 2003. To qualify for the credit, the child must be *under* age 17 by the end of the year (Code Sec. 24(c)(1)(B)).

The next age threshold for tax purposes to be aware of is age 18. Several key tax rules center on this age. In many states, age 18 is the age of majority. This means it becomes the age at which a parent is relieved of the responsibility of filing a return on behalf of a child. Some states, however, still use age 21 as the age of majority so parents should check with state law to determine their filing responsibilities with respect to their children.

Age 18 affects Coverdell education savings accounts. Contributions to such accounts can only be made on behalf of a beneficiary who has not attained age 18 (Code Sec. 530(b)(1)(A)(ii)). However, the language of the Code allows contributions to be made up to the date of the 18th birthday because it only states that contributions cannot be accepted after the beneficiary attains age 18. Thus, if a child turns 18 on May 1, 2003, contributions to a Coverdell ESA on the child's behalf can be made through April 30, 2003.

Planning Pointer The age limit does not apply in the case of a special needs beneficiary. This is someone who, because of a physical, mental or emotional condition requires more time to complete his or her education.

There may also be an age threshold for funding a qualified tuition plan. The Code does not fix an age limit (Code Sec. 529). However, state law may impose an age limit. This is especially true for prepaid tuition plans. For example, to fund Alabama's prepaid tuition plan, the beneficiary must be in the 9th grade or below at the time the plan is purchased and the benefits must be used within 10 years after the projected college entrance date.

For Florida's prepaid tuition plan, the beneficiary must be under 21 and below the 12th grade at the time the contract is purchased and benefits must be used within 10 years after the projected college entrance date.

In contrast, there generally are no age restrictions or limitations for savings-type plans. For instance, California has no age requirements or restrictions whatsoever on its savings plan—on contributions or withdrawals. Similarly, New York does not have any age requirements on contributions or withdrawals. However, for the New York savings plan there's a 10% penalty on withdrawals within 36 months of a contribution, so effectively if funds are needed when a child is age 18, contributions must be made before the child is 15 to avoid the penalty.

To find state-by-state age limitations and restrictions with respect to 529 plans, see www.savingforcollege.com.

Another tax rule that turns on age 18 has to do with Social Security and Medicare—or FICA—taxes. Age 18 is the age below which a self-employed parent is exempt from paying FICA tax on wages paid to a child in his or her employment. The exemption from FICA tax is really a substantial one—effectively saving the parent 7.65% of the wages paid to the child, and the child saves a like amount.

The exemption applies if the child has not attained age 18 for at least four continuous weeks in the calendar quarter in which the service is rendered (Code Sec. 3121(b)(3)-(B)(iii)). This means that the exemption can be claimed for part of the year in which a child turns age 18.

Study Question 3

Sally has a niece who turns age 18 on June 10, 2003. Assuming Sally's MAGI is below the threshold amount, contributions to her niece's Coverdell education savings account are permissible through June 9, 2003. *True or False?*

Study Question 4

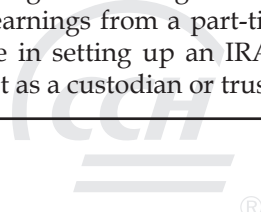
Irene is a self-employed person who hires her daughter, Sue, to work for her during the summer of 2003. Sue, who graduates from high school in June, turns 18 on November 15, 2003. Irene is not required to pay FICA tax on Sue's summer wages. *True or False?*

Now we want to discuss some age limits in connection with the dependency exemption. The gross income test for determining whether a person qualifies as a taxpayer's dependent does not apply to the taxpayer's child who is under age 19 as of the close of the year and also to a child who is under age 24 at the close of the year and a full-time student.

Planning Pointer: Of course, a child who passes these age thresholds can still qualify as a taxpayer's dependent if the child's gross income for the year is no more than the exemption amount — \$3,050 in 2003.

Another childhood-related birthday we want to discuss concerns eligibility to participate in qualified retirement plans. A plan may set an age requirement for participation by excluding employees who have not yet attained age 21 (Code Sec. 410(a)(1)(A)(i)). SEPs automatically have an age-21 requirement (Code Sec. 408(k)(2)(A)). Certain educational institutions may use age 26 as the participation requirement if the service requirement does not exceed one year and there is immediate vesting after one year of service (Code Sec. 410(a)(1)(B)(ii)).

Planning Pointer: There is no minimum age requirement for contributing to an IRA. As long as a taxpayer has earned income, he or she may fund an IRA regardless of age. As a practical matter, young children or teens with earnings from a part-time or summer job may need parental assistance in setting up an IRA. However, there is no need for the parent to act as a custodian or trustee of the IRA account.



Study Question 5

Taxpayers must be at least age 21 to contribute to an IRA even if they have wages at a younger age. *True or False?*

Finally, the last tax-related age of childhood—in the eyes of the tax law—relates back to the Coverdell education savings account. Age 30 is the triggering date for the distribution of funds from the account and the taxation of the beneficiary on earnings in the account.

Age 30 for this purpose is the beneficiary's actual birthday. The account balance must be distributed to the beneficiary 30 days after his or her 30th birthday.

The beneficiary is then taxed on the earnings portion of this distribution. However, immediate taxation can be avoided by rolling over the account balance to a member of the beneficiary's family who is under age 30. If a beneficiary dies before age 30, the earnings become taxable to the beneficiary's estate within 30 days of death. However, a rollover to a family member can also be used to avoid this tax result.

Planning Pointer: Just as the age 18 limitation on contributions to Coverdell ESAs does not apply to a special needs beneficiary, the age 30 date also does not apply to a special needs beneficiary. In this case, there is no time limit on taking distributions from the Coverdell ESA.

Study Question 6

Coverdell ESA earnings do not become taxable when the beneficiary attains age 30 if the beneficiary is a special needs beneficiary. *True or False?*

C. Middle Age

Now we will discuss some tax rules that apply solely to those in middle age. The first key birthday is attainment of age 50. Taxpayers who attain this age by the end of the year are eligible to make catch-up contributions to IRAs and qualified retirement plans. This catch-up contribution option applies without regard to whether or not prior contributions have been made—it turns solely on being at least age 50.

For 2003, the catch-up contribution amount for 401(k) and similar plans is \$2,000 (Code Sec. 414(v)(5)(A)). This means that instead of the \$12,000 limit on elective deferrals that applies to someone under age 50, contributions of up to \$14,000 are permissible by those who reach age 50 by the end of 2003. For purposes of

the catch-up limit, the age requirement must be satisfied at the end of the *plan* year, which may or may not coincide with the calendar year.

For SIMPLE plans, the catch-up contribution amount is \$1,000 (Code Sec. 408(p)). This means that instead of the \$8,000 limit on elective deferrals that applies to someone under age 50, contributions of up to \$9,000 are permissible by those who reach age 50 by the end of 2003. Again, the age requirement depends on the *plan* year, not the calendar year, although most SIMPLE plans are maintained on a calendar-year basis.

For IRAs, including Roth IRAs, the catch-up amount is \$500 (Code Sec. 219(b)(5)(B)). This means that instead of the regular contribution limit of \$3,000 that applies for 2003 to someone under age 50, the limit becomes \$3,500 for those who reach age 50 by the end of 2003.

Active participants in qualified retirement plans who are eligible to make partially deductible IRA contributions must figure their applicable portion of the dollar limit. This computation applies to singles whose modified AGI is between \$40,000 and \$50,000, and married couples who file jointly with MAGI between \$60,000 and \$70,000.

Planning Pointer: Taxpayers who make IRA contributions on behalf of a nonworking spouse figure their allowable contribution based on the age of the spouse for whom the contribution is made. For example, if a working spouse, age 49, makes a contribution on behalf of a nonworking spouse age 52, the contribution limit is \$3,500—it is *not* dependent on the age of the spouse who is making the contribution.

Study Question 7

Catch-up contributions depend solely on age and not on a taxpayer's history of prior contributions. *True or False?*

The next two ages we will discuss concern the exemption from the early distribution penalty for qualified retirement plans, IRAs and annuities. A 10% penalty applies unless an exemption from penalty applies.

For purposes of qualified retirement plans only—and not IRAs or annuities—there is no early distribution penalty for someone who attains age 55 *and* is separated from service (Code Sec. 72(t)(2)(A)(v)). The age requirement appears to be attainment of age 55 by the end of the year in which the distribution is made—and not necessarily 55 on the date of separation from service. For example, an individual who turns age 50 on July 1, 2003, but was

terminated on May 1, 2003, receiving a distribution at that time, is not subject to an early distribution penalty.

This exemption from the penalty can only be used by an employee (not a self-employed person) because such an individual cannot be viewed as separating from service, even if he or she stops working for the company.

Study Question 8

Stan takes early retirement from his company at age 54 and directs that his retirement plan benefits be transferred directly to an IRA. The following year, Stan takes a distribution from the IRA. The distribution is *not* subject to an early distribution penalty (assume Stan is *not* disabled). *True or False?*

Similarly, no early distribution penalty applies for *any* retirement plan, IRA or annuity on or after attaining age 59½ (Code Sec. 72(t)(2)(A)(i)). Again, although the regulations do not define this date, it appears that this exemption applies as of the taxpayer's birthday. Thus, merely attaining this age by the end of the year is not sufficient to claim exemption from the penalty if the actual distribution is made before meeting this age requirement.

Planning Pointer: Taxpayers under age 59½ who want to take penalty-free distributions from their retirement plans or IRAs can do so as a series of substantially equal periodic payments (Code Sec. 72(t)(2)(A)(iv)). Payments must continue under an annuity-type schedule for the longer of five years or until the taxpayer attains age 59½. The five years is actually the end of the five-year period beginning with the date of the first payment. For example, if the taxpayer starts taking distributions at age 52, he must continue doing so until age 59½. But if he is 57 when he starts such distributions, they must continue until age 62.

The age 59½ threshold does not apply to distributions on account of death or disability. Thus, if distributions are made on account of death, neither the plan participant nor the beneficiary must satisfy the age 59½ threshold – there is no penalty in this case. Similarly, if a plan participant age 40 takes distributions on account of disability, there is no penalty.

However, the age 59½ threshold *does* apply in the case of involuntary cash-outs – distributions that plans can make if the present value of the participant's accrued benefits is \$5,000 or less. The only way to escape the penalty in this case is to roll over the distribution to an IRA or other qualified retirement plan.

®

Study Question 9

Jane commenced distributions from her IRA at age 57 under a series of substantially equal periodic payments in order to avoid the 10% penalty. Jane can stop the distributions upon reaching age 59½. *True or False?*

D. Seniors

Now we will look at the many tax rules exclusively applicable to seniors. First we will look at some important birthdays for purposes of Social Security and Medicare. The first key birthday to consider is 62—the earliest date on which an individual can obtain Social Security benefits for old age. This age continues to apply to early retirement benefits, even though the full retirement age is now increasing. The amount of benefits collected will naturally impact on the amount of taxes paid if the Social Security recipient has income over a threshold amount such that 50% or 85% of benefits are includible in income.

It is important to realize that starting benefits at this age means a permanent reduction in benefits for the remainder of one's lifetime—and for any survivor benefits as well.

If someone starts collecting benefits at age 62 but continues to work, benefits may be reduced. For 2003, benefits are reduced by one dollar for every two dollars in excess of \$960 a month or \$11,520 for the year (Social Security Fact Sheet 10/18/02). This limit on earnings continues to apply until a taxpayer reaches the full retirement age—65 for those born in 1937 and 65 years, two months for those born in 1938.

Planning Pointer: One of the most common questions asked by those turning age 62 is whether to start collecting benefits as soon as possible—at a reduced rate—or wait until attaining the full retirement age. Generally, it is advisable to start benefits as soon as possible, despite the permanent reduction. It can take more than 15 years for someone who waits until the full retirement age to collect to make up for those lost years of not collecting. This does not even take into account the impact that investment earnings can have on the breakeven point if benefits are invested rather than used for retirement income.

Age 65 used to be the full retirement age—the time when an individual could start receiving Social Security benefits without any reduction. However, as we mentioned earlier, the full retirement age is increasing. For someone born in 1938, the full retirement age is 65 plus two months. Thus, if someone was born on March 1, 1938, they must wait until May 1, 2003, to obtain their full retirement age.

®

The full retirement age is also the key date for being able to earn any amount of wages or self-employment income without causing a reduction in Social Security benefits. Again, for those born in 1937 or earlier, they are in the clear – they have already attained the full retirement age. For those born in 1938, they must be at least 65 years and two months in order to clear the earnings limit.

However, age 65 is still the eligibility date for Medicare coverage. This date applies regardless of when a taxpayer starts to collect Social Security benefits. This means that someone who starts collecting Social Security benefits at age 62 must still wait until attaining age 65 to start coverage under Medicare.

Planning Pointer: It is advisable for an individual to contact the Social Security Administration about three months prior to age 65 in order to complete the paperwork necessary for Medicare coverage.

The next key birthday for tax purposes is 65. This date applies for a couple of tax rules. First, it is the date that a taxpayer first qualifies for an additional standard deduction amount. For 2003, this is \$1,150 for taxpayers who are unmarried and not a surviving spouse and \$950 for married persons.

Age for purposes of the additional standard deduction is determined as of the end of the year. However, those born on January 1, 2004, are treated as having attained age 65 in 2003.

Planning Pointer: The additional standard deduction is taken into account in determining whether a taxpayer is required to file a return. This is so even if the taxpayer ultimately itemized deductions.

The next key date we want to talk about is age 68. Someone who has attained this age in 2003 was necessarily born before 1936 and thus qualifies to use special 10-year averaging to figure the tax on a lump-sum distribution from a qualified retirement plan.

This election allows the taxpayer to figure the tax using the rates in effect for 1986 for single taxpayers, regardless of the taxpayer's actual filing status then or now. The taxpayer can also use a 20% capital gain rate if an election is made with respect to the pre-1974 portion of the lump-sum distribution.

The final key date we want to discuss is age 70½ – the date used in connection with qualified retirement plans and IRAs.

Taxpayers who turn age 70½ during the year can no longer make tax-deductible contributions to IRAs, even if they are otherwise qualified to do so. However, this age limit does *not* apply for certain purposes:

- ◆ Those age 70½ and older can continue to contribute to a deductible IRA on behalf of a nonworking spouse who is under this age. For example, if a working wife is age 71, she can contribute to a deductible IRA on behalf of her retired spouse, age 70, if otherwise qualified to do so.
- ◆ Contributions can still be made to Roth IRAs. There is no age restriction on making contributions to this retirement account – only income limits.
- ◆ Contributions can still be made to SEPs and SIMPLE-IRAs, by or on behalf of taxpayers who attain age 70-1/2. Thus, for example, a participant in a SIMPLE-IRA can make elective deferrals to the plan. Of course, such individuals must satisfy required minimum distribution rules as will be discussed shortly.

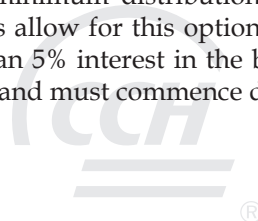
Age 70-1/2 is also the age at which a taxpayer must begin required minimum distributions from qualified retirement plans and IRAs. However, there are certain key exceptions:

- ◆ The first distribution can be postponed until April 1 of the year following attainment of age 70½. For example, if an individual was born on May 1, 1933, he will attain age 70½ on November 1, 2003.

Normally, he must take his first required minimum distribution by December 31, 2003. However, he can wait as late as April 1, 2004, to take the first distribution.

Planning Pointer: Taxpayers must decide whether to rely on this exception to postpone the first distribution. Doing so means that they must take *two* distributions in the same year – one on April 1 and the second distribution by December 31 of the same year. Taxpayers must carefully review their overall income picture to select the better year in which to take the first required minimum distribution.

- ◆ There are no lifetime required minimum distributions for Roth IRAs. Thus, regardless of age, a taxpayer who is still working can continue to fund the Roth IRA and is *not* required to take distributions, working or not.
- ◆ Taxpayers who are still working can postpone commencing required minimum distributions until actual retirement if their plans allow for this option. However, those who own a more-than 5% interest in the business cannot rely on this exception and must commence distributions at age 70.



Study Question 10

Arthur turns age 70-1/2 in 2003. He can take his first required minimum distribution from his IRA up to April 1, 2004. *True or False?*

In conclusion, it is important to recognize that a birthday can have tax consequences. Planning ahead in some cases can enable taxpayers to take advantage of opportunities that new birthdays present.

II. PRACTICE MANAGEMENT TIP: ACCESSING TAX INFORMATION ON THE INTERNET

A. Introduction

Now we will highlight a practice idea to help you better serve your clients and increase your fee income. This practice management tip concerns more effective utilization of Internet material, much of which is free or modestly priced.

B. Free Primary Source Material

There is a great deal of primary source material that you can easily access free of charge. This material can be used for client research or merely to keep you up to date on tax developments. There are also sites you can access to help you satisfy continuing education requirements at your own convenience. We will tell you what the sources are and provide you with the links to these sources.

The main site for free primary source material is the IRS website (www.irs.gov). Here you can find and download not only all of the IRS forms and publications, but you can also find:

- ◆ News releases, describing the latest developments (www.irs.gov/newsroom/lists/0,,id=98040,00.html).
- ◆ Internal revenue bulletins, that include revenue rulings, procedures, notices, announcements and newly issued regulations: (www.irs.gov/individuals/lists/0,,id=98200,00.html).
- ◆ Private letter rulings, provided under the Freedom of Information Act: (<http://www.irs.gov/news/efoia/determine.html>). Unfortunately, you must *know* the number of the ruling you're looking for because there is no index available for these rulings.
- ◆ Draft forms for the coming year, which usually start to be released in June: (www.irs.gov/taxpros/lists/0,,id=97782,00.html). You can have the list of forms displayed by form number or release date.

Planning Pointer: Searching for information on the IRS site is *not* intuitive. Material has been assigned to different sectors of the site—Individuals, Businesses, Professionals—but not always on any rational basis. For example, the Internal Revenue Bulletins are under “Individuals.” It is suggested that you bookmark the IRS and other links provided for easy access.

You can find federal tax legislation by accessing the Library of Congress’ website (<http://thomas.loc.gov/>). You can see the complete text of bill and its status. You can search by bill number, bill title or even subject matter.

You can see an explanation of proposed and passed legislation as well as budget information by accessing the website of the Joint Committee on Taxation (www.house.gov/jct/).

You can also check out the websites of the two tax committees in Congress. At the House Ways and Means Committee website (<http://waysandmeans.house.gov/>) you can access hearings, news releases and other information. At the Senate Finance Committee website (<http://finance.senate.gov/>), you can find similar information about its committee activities.

You can also find Tax Court decisions online (www.ustaxcourt.gov). These include not only regular decisions but also memorandum decisions as well as summary decisions from small Tax Court cases. You need to know the name of the taxpayer or the decision’s release date to find what you’re looking for.

C. Modestly-Priced Material

Often when you’re dealing with specific problems, there’s a wealth of material that you can review in the comfort of your home or office—and you can receive CPE credit for your efforts.

For example, a line of 80 interactive courses is available to you at modest cost through CCH’s Learning Center: (<http://cch.learningcenter.com/partners/cchcpe/>).

The courses are fully integrated with CCH Internet Tax Research NetWork to enable you to do more research on topics you select and to see the full text of documents cited in the courses, including Code sections and regulations, cases and rulings.

III. RECENT DEVELOPMENTS

A. Travel and Entertainment Developments

Now we will discuss some important and interesting developments. The first change concerns the new standard mileage rates for 2003 (Rev. Proc. 2002-61, IRB 2002-39, 616). The cost of operating a car for business can be reported in either of two ways: the actual

expense method or a standard mileage rate. Under the actual expense method, a deduction may be claimed for the cost of gas, oil, maintenance and repairs, insurance, vehicle registration fees and an allowance for depreciation for a car that is owned or lease payments for a car that is leased. The standard mileage rate obviates the need to keep track of these separate expenses; the standard mileage rate can be claimed as long as there is substantiation for the number of miles traveled for business, the date of travel, and the purpose of the travel. Tolls and parking can be deducted separately under both methods.

Taxpayers generally can choose between the actual expense method or standard mileage rate, selecting the method that results in the greater deduction (assuming there are records to support the actual expense method). However, the standard mileage rate cannot be used for a car placed in service in a prior year if actual expenses were deducted in that prior year.

The standard mileage rate for business travel in 2003 has been decreased to 36 cents per mile, down from 36.5 cents per mile in 2002.

If the standard mileage rate is used, then the basis of the car for purposes of determining gain or loss on its disposition must be reduced by a “deemed” depreciation rate, which is an amount of depreciation that is assumed to have been taken for the vehicle. The deemed depreciation rate for 2003 is 16 cents per mile, up from the 15 cents per mile rate that applied for 2001 and 2002.

An IRS standard mileage rate can also be used for figuring the cost of using a car for medical, moving or charitable purposes. For 2003, the rate for medical or moving purposes is 12 cents per mile, down from 13 cents per mile in 2002. The rate for charitable use of a car, which is a statutory rate, remains at 14 cents per mile.

Just as using the standard mileage rate can simplify record keeping for car use, record keeping for business travel can be eased if the deduction is based on an IRS-provided per diem rate. Use of the per diem rates avoids the need to keep receipts and records of certain costs. Other details of business travel, such as the date, reason for the travel, and the location, must still be recorded in order to support claimed deductions.

Where employers reimburse employees for travel expenses, using a per diem rate can avoid not only record keeping but also Form W-2 reporting. If the reimbursement arrangement is treated as an “accountable plan” — one in which the employee is required to adequately account for expenses to the employer and return excess reimbursements within a reasonable time — then the employer need not report reimbursements on the employee’s W-2 and the employee need not include the reimbursement in income. Reimbursement can be made at or less than the federal per diem rate for the location of the travel. If reimbursement exceeds this rate, then the excess must be reported on the employee’s W-2 and taken into income.

A simplified method, where only two rates are used, applies to business travel within the continental U.S. Under the high-low substantiation method, there is a rate for travel to so-called "high cost areas" and a rate for travel to all other areas. The IRS has recently released the high-low rates and locations for travel in the continental U.S. for expenses paid or incurred on or after October 1, 2002, the start of the federal government's fiscal year 2003, or FY 2003 (Rev. Proc. 2002-63, IRB 2002-41, 691; 02FED ¶46,662; 02FTG ¶8280 and ¶8282). Details of the rates and locations may be found online at Policy Works (www.policyworks.gov/perdiem). The high-low substantiation rates, which include lodging, meals and incidental expenses, are basically unchanged from those in effect last year starting October 1, 2001: \$204 for travel to high cost areas, of which \$45 represents meals and incidental expenses, and \$125 for travel to all other locations, of which \$35 represents meals and incidental expenses. While the lodging portion of the per diem rate is fully deductible, the meals portion is only 50% deductible. The definition of "incidental expenses" has been modified effective on January 1, 2003. Starting at that time, incidental expenses no longer include the cost of laundry, cleaning and pressing of clothing (see T.D. 9020 for amendment to the regulations; 02FED ¶47,070 and ¶49,487; FTS §G:8.360; 02FTG ¶8280 and ¶8282).

The number of high cost areas has changed for FY 2003, with more places deleted from this category than added. Also some areas are high cost areas for only part of the year during the peak tourist season.

The changes in the high-cost areas for FY 2003, including new areas, changes in the portion of the year for which the locality qualifies as a high-cost area and removal from last year's list of high cost areas are listed below:

- ◆ New high-cost areas for FY 2003 include the following locations: Santa Monica, CA; Baltimore, MD; Staten Island, NY; King of Prussia/Ft. Washington/Bala Cynwyd and Philadelphia, PA; and Seattle, WA.
- ◆ The portion of the year for which the following are high cost localities have been changed as follows: Odgen/Layton/Davis County, UT.
- ◆ Formerly a high-cost locality removed from this year's list is Palm Beach, FL.

B. Social Security-Related Developments

Now we will focus on the Social Security-related changes for 2003. For 2003, the Social Security portion of FICA and self-employment taxes will apply to the first \$87,000 of wages and/or net earnings from self-employment, up from \$84,900 in 2002 (SSA News Release, 10/18/02; 02FED ¶46,705; FTS §A: 23.41; 02FTG ¶3750, ¶7715 and ¶18,220). The Medicare portion will apply to all wages and net earnings from self-employment,

without limitation. The tax rate on employees and employers remains unchanged at 6.2% for the Social Security portion and 1.45% for the Medicare portion, or a total of 7.65%. The tax rate on self-employed individuals is 12.4% for the Social Security portion and 2.9% for the Medicare portion, for a total of 15.3%. Self-employed individuals can deduct one-half of their tax as an adjustment to gross income.

The increased wage base means that working individuals earning the maximum amount will pay an additional \$130.20 in Social Security tax and self-employed individuals will pay an additional \$260.40, one-half of which is deductible. Companies paying the employer share of FICA will also pay an additional \$130.20 for each employee earning \$87,000 or more in 2003.

The threshold for paying FICA tax on household workers – the so-called Nanny tax – has increased in 2003 to \$1,400, up from \$1,300 in 2002 (Notice, IRB 2002-46, 871; 02FED ¶46,750).

Due to the 1.4% cost-of-living adjustment, the average monthly benefit for retirees will increase to \$895, up \$17 over the 2002 average benefit amount.

The maximum benefit payable to someone retiring at the full retirement age rises to \$1,741, up \$81 over the 2002 maximum benefit amount.

We think it is important to note that the full retirement age starts to increase for those born after 1937. For example, the full retirement age for those born in 1938 is 65 years and two months. So, individuals who turn 62 in 2003 and wish to retire at age 62 will lose a greater portion of benefits than those retiring at age 62 who had a normal retirement of 65.

Retirees under the age of the full retirement age – 65 for those born in 1937 and 65 years, two months for those born in 1938 – can lose some or all of their Social Security benefits if they continue to work. However, the earnings limit has increased in 2003 allowing individuals to earn more each month without causing any reduction in their benefits.

Retirees under the full retirement age can earn up to \$11,520, or \$960 per month. This is up from \$11,280 in 2002. For every two dollars of earnings over this limit, retirees in this age category will lose one dollar of benefits.

Retirees who are at least the full retirement age can earn any amount without causing a reduction in benefits.

Planning Pointer: Retirees, regardless of age, who continue to work part-time or full-time must still pay Social Security and Medicare taxes as described above.

And while we're talking about Social Security and Medicare taxes, there's an important case we should mention. An S corporation shareholder pays income tax on his or her share of corporate income, whether or not distributed to the shareholder. However, if the shareholder performs services for the corporation, a portion of this income must be characterized as compensation upon which the corporation and the shareholder-employee pay FICA taxes.

In one recent case, an accountant who was the sole shareholder and president of his firm did not take any salary. Instead, he characterized payments from the corporation to himself as fees to an independent contractor. The Tax Court rejected this characterization and required the payments to be treated as compensation subject to FICA (*Joseph M. Grey Public Accountant, PC*, 119 TC No. 5 (2002)).

The court rejected each of the taxpayer's arguments. He maintained that since the S corporation passes through all its income, there could be no employer-employee relationship. According to the court there is no basis for this argument.

The accountant next argued that as a corporate officer he could not be an employee unless he was treated as a common law employee. Here, however, he was a common law employee because the corporation could exercise control over him by the very nature of the corporate existence. The very fact that he performed services for the corporation established that he was an employee.

A company owner, corporate officer or other person in a position to direct how company money is spent can be held 100% personally liable for withholding taxes and the employee share of FICA that the company fails to deposit with the U.S. Treasury (Code Sec. 6672). These taxes – income tax withholding and the employee share of FICA – are referred to as trust fund taxes because the employer collects and holds them in trust for the benefit of employees. If the responsible person allows other creditors to be paid before depositing trust fund taxes, the personal penalty can be imposed.

In one recent case (*Thosteson*, CA-11, 2002-2 USTC ¶50,649), a corporate shareholder-officer was held to be a responsible person even though there were others who were also responsible persons. The taxpayer had authority over hiring and firing and check writing. He was a responsible person even though he had a superior who was more culpable and limited the taxpayer's check writing authority.

C. Retirement Plan Developments

Now we are going to discuss some developments affecting qualified retirement plans. The deadline for updating prototype retirement plans to reflect law changes made over the past eight years has been extended (Rev. Proc. 2002-73, IRB 2002-49,

932; 02FED ¶46,762; FTS §C:17.41[4]; 02FTG ¶4150, ¶4505 and ¶11,020). The deadline, which had been December 31, 2002, has been extended to September 30, 2003. The IRS took this action just a few weeks before the deadline because compliance had been minimal; thousands of plans had not yet been amended.

The new deadline applies to several amendments, including:

- ◆ GUST (for prototype plans, the type generally offered through brokerage firms, mutual funds and banks). GUST is an acronym for the Uniformed Services Employment Act of 1994, the Uruguay Round Agreement Act, the Small Business Job Protection Act of 1996, the Tax Reform Act of 1997, and the IRS Restructuring and Reform Act of 1998.
- ◆ The Community Renewal Tax Relief Act of 2002, which changed the definition of compensation for qualified plans and 403(b) annuities by viewing it as compensation reduced by any tax-free qualified transportation benefits.

Planning Pointer: To date, the IRS has *not* extended the deadline for making good faith amendments to plans reflecting changes, including contribution limits, by the Economic Growth and Tax Relief Reconciliation Act of 2001. These good faith amendments are necessary for plans to be eligible for maximum contributions in 2002 (for example, basing contributions to profit-sharing plans on up to \$200,000 of compensation). However, the IRS may also extend this deadline so watch for further developments.

The IRS has announced cost-of-living changes affecting qualified retirement plans for 2003. With few exceptions, *none* of the dollar limits are changed in 2003 as a result of COLAs (Notice 2002-71, IRB 2002-45, 830; 02FED ¶46,742; FTS §C:13.102). The following limits remain unchanged from 2002:

- ◆ The limit for contributions to defined contribution plans is \$40,000.
- ◆ The limit for benefits under defined benefit plans is \$160,000.
- ◆ The limit on compensation taken into effect in computing contributions and benefits is \$200,000.
- ◆ The limit on the definition of a highly compensated employee is \$90,000, or \$130,000 for purposes of a top-heavy plan.
- ◆ The amount of compensation used to determine participation in a SEP is \$450.

The following limits have been increased for 2003:

- ◆ The maximum account balance in an ESOP subject to a five-year distribution period is \$810,000, up from \$800,000 in 2002.
- ◆ The annual compensation of participants in certain governmental plans to which cost-of-living adjustments can be made is \$300,000, up from \$295,000.

A number of changes in the limits for qualified retirement plans become effective in 2003. These are statutory changes and include:

- ◆ Maximum elective deferrals to 401(k) and similar plans are \$12,000, or \$14,000 for those age 50 or older by year-end.
- ◆ Maximum elective deferrals to SIMPLEs are \$8,000, or \$9,000 for those age 50 or older by year-end.

Final regulations on required minimum distributions determine the beneficiary of a deceased participant as of September 30 of the year following the year in which a participant dies. However, the IRS has now interpreted this rule under a specific set of circumstances (Letter Ruling 200244023; 02FED ¶47,569; FTS §C:14.165[1]; 02FTG ¶11,020 and ¶11,450).

In the ruling, a participant in a profit-sharing plan named a trust as the beneficiary of his interest in the plan. The trust was to be divided into subtrusts on his death, with his wife and son as beneficiaries of each subtrust. When the spouse died, her subtrust would also pass to the son. The participant died in 2001, survived by a spouse who then died *before* the September 30th date.

Generally, under the regulations, distributions can be made over the life expectancy of the beneficiary (based on an IRS table) if there is a designated beneficiary. The IRS has now ruled that for purposes of which life to use in determining distributions, the oldest named beneficiary who survives the participant is the measuring life, even if this person does not survive the September 30 date. In this case, the wife's life expectancy is used to determine required minimum distributions even though she died before September 30.

The profit-sharing plan purchased a non-transferable variable annuity contract from an insurance company that will make distributions to the trust not exceeding required minimum distributions based on the wife's life expectancy. The preamble to the final regulations says that annuity payments cannot vary with the value of the underlying assets of the plan.

However, the IRS now says that this language does not preclude payments that are made under an annuity contract purchased from a life insurance company.

This ruling provides flexibility to those who want to manage the performance of the plan through the use of a variable annuity. Such action is not automatically treated as a distribution; funds can remain in the plan with distributions limited by the required minimum distribution rules.

What happens if a distribution is made to a participant and it turns out to be an incorrect amount? That's exactly what happened in one recent situation. An employee retired and took a lump-sum distribution from his qualified retirement plan. He paid tax on the distribution. But the following year, the plan discovered that it had miscalculated the distribution and asked for a return of the excess amount. The retiree refunded this amount and the IRS has now ruled that he can claim a deduction for the returned amount because he paid tax on it (Rev. Rul. 2002-84, IRB 2002-50, 953).

The way in which the deduction is claimed depends on the amount involved.

- ◆ If the amount is \$3,000 or less, the deduction is claimed as a miscellaneous itemized deduction on Schedule A, but only to the extent it exceeds 2% of adjusted gross income.

Planning Pointer: It is not entirely clear that the 2% floor applies in this instance but the IRS has taken the position that it does apply. A taxpayer could argue that the 2% floor does not apply, although it might invite an IRS audit.

- ◆ If the amount is more than \$3,000, the deduction can be claimed in either the year of repayment or in the year the tax on the amount was paid, whichever is more favorable to the taxpayer. Alternatively, the taxpayer can claim a tax credit, based on a recomputation of the tax for the year in which the income was received.

The last retirement plan development concerns cash balance pension plans. Proposed regulations (PO-3676, 12/10/02) have recently been issued to provide guidance on cash balance plans. A cash balance plan combines the benefit formula of a defined contribution plan with the investment security of a defined benefit plan. In effect, the plan sets up a hypothetical account for each participant and credits the account with hypothetical contribution and interest credits.

Under the proposed regulations, a cash balance plan would generally satisfy the age discrimination rules if the contribution credits to an employee's account are not less than the credits that would be made if the employee were younger.

The proposed regulations address the conversion of traditional pension plans to cash balance plans—something that triggered a string of lawsuits by older workers against corporations that

have made the conversions on the theory that their benefits were being unfairly cut. Under the proposed regulations, the plan must be age-neutral before, during and after the conversion. This is accomplished if each participant's account is calculated on an age-neutral basis. The so-called "wear-away" period—the time during which the cash balance benefits catch up with benefits under the traditional plan—would not violate the regulations.

The proposed regulations are extensive and public comment on them is invited.

D. Developments Affecting Attorneys and Accountants

Now we will consider some developments affecting attorneys and accountants.

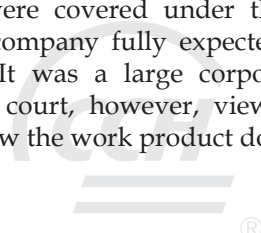
The attorney-client privilege protects communications between a corporation and its counsel made in connection with obtaining legal advice. But not every tax-related communication can fall under this umbrella.

In one recent case, the IRS issued a summons to a company requesting seven of its documents to help determine its tax for 1995 and 1996. The company refused to comply, arguing that the documents are protected under attorney-client privilege and the work product doctrine. The IRS filed a motion to enforce the summons and a U.S. district court gave the IRS a partial victory (*Telephone and Data Systems, Inc.*, DC WI, 2002-2 USTC ¶50,569).

All of the documents had been turned over to the company's law firm. While three of the documents could be viewed as legal advice protected from disclosure, the other four documents were not protected by attorney-client privilege. Merely transmitting information to an attorney does not establish privilege.

One of the three documents that had to be disclosed was a letter to the company's accounting firm requesting two opinion letters. But a mere reference in the letter to counsel does not make the communication privileged. Another document was a letter from the accounting firm to the company detailing the federal income tax consequences of a particular transaction. This letter was not related to legal advice, even though there was a similar letter from the company's law firm.

The company also argued unsuccessfully that all of the documents were covered under the work product doctrine because the company fully expected to be involved in a tax controversy. It was a large corporation that was routinely audited. The court, however, viewed this possibility as too remote to allow the work product doctrine to apply.



Planning Pointer: The granting of privilege similar to attorney-client privilege to accountants and other federally-authorized tax practitioners by the IRS Restructuring and Reform Act of 1998 extends only as far as the privilege that attorneys enjoy (Code Sec. 7525). More specifically, the privilege applies only to any noncriminal tax matter or noncriminal tax proceeding; it does *not* apply for tax advice and it does not extend to matters with other federal regulatory bodies, such as the SEC. The extension of privilege only applies to communications made after July 22, 1998.

Taxpayers involved in civil tax matters can recover their attorney fees and other litigation costs from the government, provided they meet four basic requirements (Code Sec. 7430). The taxpayer must:

- ◆ Be the prevailing party in a civil litigation on a tax matter in any federal court (a U.S. district court, the U.S. Claims Court or the U.S. Tax Court). This means that a taxpayer substantially prevailed with respect to the amount in controversy or the most significant issue or set of issues presented.
- ◆ Exhaust administrative remedies. Under IRS rules, for example, it is necessary that a taxpayer ask for an appeals office conference prior to commencing a suit for refund or a Tax Court petition in order to satisfy this requirement.
- ◆ Show that the IRS's position was not "substantially justified." Neither the Internal Revenue Code nor the regulations thereunder define this term.
- ◆ Request a recovery of attorney fees and litigation costs in a court action. A court will not award such fees on its own initiative.

However, even assuming all of these conditions are met, the recovery generally is limited to \$150 per hour in 2003, the same rate in effect for 2002. Higher hourly fees are awarded only if there is a special factor, such as the limited availability of qualified attorneys for particular proceedings or the difficulty of the issues presented.

In one recent case, a taxpayer who *ultimately* prevailed was only entitled to recover legal fees incurred after a certain point in its dealings with the IRS. A trucking company had contested an IRS determination that per diem payments to its workers were taxable wages and a U.S. district court agreed. But an appellate court reversed, siding with the taxpayer, at which point the taxpayer made a qualified offer to the IRS. The IRS refused the offer and, on remand, the district court entered a directed verdict in the taxpayer's favor. The IRS conceded that the taxpayer was entitled to recover legal fees, but only those incurred from the date the taxpayer's offer was refused.

®

A U.S. district court agrees with the IRS (*Trucks, Inc.*, DC GA, 2002-2 USTC ¶150,723; FTS §P:22.80). The IRS's position was

substantially justified throughout the initial court actions. The appellate court noted that it did not find for the taxpayer as a matter of law but rather on the basis of the facts. The IRS's position only became *not* substantially justified after the appellate court decision against it when it forced the taxpayer to continue pursuing the matter (and incurring costs) after refusing an offer.

E. New IRS Telephone Numbers

The IRS has created new telephone numbers that certain taxpayers can access for faster assistance (IR-2002-130, 11/27/02). There is now a new toll-free number for individuals and small businesses requesting refunds (800-829-1954).

There is also a new toll-free number that small businesses, corporations, partnerships and trusts can call for information or help in preparing business returns (800-829-4933).

Both telephone numbers became operational on December 2, 2002.

F. IRS Interest Rates for the First Quarter of 2003

Finally, the IRS interest rates for the first quarter of 2003 are down from the fourth quarter of 2002 and are the lowest they've been since 1975 when the law changed to peg the IRS interest rates to money market rates (IR-2002-131, 12/2/02; Rev. Rul. 2002-70, IRB 2002-50, 958).

The rate for noncorporate overpayments and underpayments is 5%. The rate on corporate overpayments is 4%. The rate for large corporate underpayments is 7% and the rate on the portion of corporate overpayments exceeding \$10,000 is just 2.5%.

CONCLUSION

And that concludes this edition of the **CPE CREDIT SERVICE**. If you're interested in earning valuable continuing professional education credits, please complete the quiz that begins on page 30. An answer sheet for the quiz is provided on the back cover of this booklet. The answer sheet may be photocopied so that others in your firm can use this service for CPE credit.

When completed, mail or fax the answer sheet to **CCH INCORPORATED**, Continuing Education Department to be graded. A \$21.00 grading fee will be billed to your CCH account or designated charge card. (Sales tax may be applicable in your state.) You may also opt to enclose a check payable to **CCH INCORPORATED**.

If you achieve a passing grade of 70 percent or greater, a Certificate of Completion, along with the graded answer sheet, will be returned to you.

In our next issue, we'll focus on another area of importance for your practice. We will also bring you news on current developments that can be useful to your clients.

ANSWERS TO STUDY QUESTIONS

1. **FALSE** is correct because while the last day of the year generally is used for this purpose, age in a number of cases is determined as of the date of the taxpayer's birthday.

TRUE is incorrect because age may be determined on a taxpayer's birthday.

2. **FALSE** is correct because once a child attains age 13, no credit can be claimed for the year, even for the portion of the year that the child was under 13.

TRUE is incorrect because there is no proration of the credit for the portion of the year in which the dependent is under age 13.

3. **TRUE** is correct; contributions can be made up to the beneficiary's 18th birthday.

FALSE is incorrect because a contribution is permitted before the beneficiary's 18th birthday, even in the year of attaining age 18.

4. **TRUE** is correct; wages are exempt from FICA as long as the proprietor's child has not attained age 18 for at least four continuous weeks in the calendar quarter in which the service is rendered.

FALSE is incorrect because the proprietor's child is under age 18 for at least four continuous weeks in the calendar quarter in which the service is rendered.

5. **FALSE** is correct because the law does not impose any minimum age for making IRA contributions.

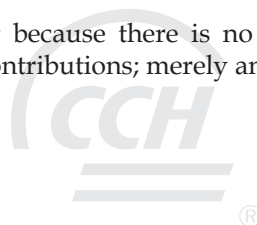
TRUE is incorrect; there is no minimum age requirement for making IRA contributions.

6. **TRUE** is correct, the law does not impose any minimum age at which the account balance must be distributed and earnings become taxable if the beneficiary is a special needs beneficiary.

FALSE is incorrect because the special needs beneficiary is not subject to the age 30 distribution requirement.

7. **TRUE** is correct; the Internal Revenue Code merely requires that a taxpayer be age 50 or older by year-end to qualify for catch-up contributions.

FALSE is incorrect because there is no look-back requirement for making catch-up contributions; merely an age requirement.



8. **FALSE** is correct because the exemption from penalty at age 55 applies only to distributions directly from a qualified retirement plan because of separation from service.

TRUE is incorrect because the age 55 exemption from the penalty for distributions before age 59½ does not apply to IRA distributions, only distributions from qualified retirement plans on account of separation from service.

9. **FALSE** is correct because she must continue the distributions for five years since this is later than attaining age 59½.

TRUE is incorrect because at age 59½ she has only been taking these distributions for two and a half years while the law requires that distributions continue for at least five years or to age 59½, whichever comes later.

10. **TRUE** is correct because the law allowed the first required minimum distribution to be postponed until April 1 of the year following the year of attaining age 70½.

FALSE is incorrect because a taxpayer is not required to take the first required minimum distribution by December 31 of the year of attaining age 70½.



CPE QUIZZER

Instructions

To obtain CPE credit, please answer the quiz questions by indicating the appropriate letter next to the corresponding numbers on the answer sheet. After completing the quiz, mail or fax your answer sheet (**photocopies are accepted for this program**) to CCH INCORPORATED, Continuing Education Department, 4025 W. Peterson Ave., Chicago, IL 60646. A \$21 grading fee will be billed to your CCH account or designated charge card, or you may send a check. (Sales tax may be applicable in your state.) The answer sheet will be graded and a CPE Certificate of Completion will be awarded for a grade of 70 percent or greater. Successful completion of the Quizzer should qualify you to receive **two hours*** of Continuing Education credit in conjunction with your CPE governing body's qualifications.

Express Grading: Processing time for your answer sheet is generally 8-12 business days. If you are trying to meet a reporting deadline, our Express Grading Service is available for an additional \$15 per module. To use this service, please check the "Express Grading" box on your answer sheet, and provide your CCH account or credit card number **and your fax number**. CCH will fax your results and a certificate of completion (upon achieving a passing grade) to you by 5:00 p.m. the business day following our receipt of your answer sheet. **If you mail your Quizzer for express grading, please write "Attn: CPE OVERNIGHT" on the envelope.** NOTE: CCH will not Federal Express Quizzer results under any circumstances.

Accreditation: All CCH Continuing Education programs are prepared in accordance with the AICPA's Statement on Standards for Formal Group and Self-Study Programs, as well as with the guidelines of various state boards of accountancy. In addition, CCH is registered as a sponsor of continuing professional education with the National Association of State Boards of Accountancy (NASBA). State boards, however, have final authority over the approval of individual courses. **Because CPE requirements vary from state to state and among different licensing agencies, please contact your CPE governing body for information on your CPE requirements and the applicability of a particular course for your requirements.**

Date of Completion: The date of completion on your certificate will be the date that you put on your answer sheet. However, you must submit your answer sheet to CCH for grading within two weeks of completing it.

Expiration: This course must be submitted for grading within one year of receipt, or 30 days after the program is discontinued.



CCH INCORPORATED is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. NASBA phone: number: 615. 880. 4200. Web site: www.nasba.org.



CCH INCORPORATED is registered with the National Association of State Boards of Accountancy (NASBA) as a Quality Assurance Service (QAS) sponsor of continuing professional education. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to NASBA, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. NASBA phone: number: 615.880.4200. Web site: www.nasba.org.

CCH CPE CREDIT SERVICE

Please answer Multiple Choice questions by indicating the appropriate letter on the Answer Sheet found at the back of this booklet. Return the Answer Sheet to CCH for grading. You do not need to send the entire test booklet.

1. Rose, a single mother, has a developmentally-impaired daughter, Amy. Rose pays for child care so that she can work. Amy's 13th birthday is July 1, 2003. (Ignore Rose's AGI for purposes of this question.) Which of the following statements is correct:
 - a. Rose may not claim any dependent care credit for 2003 because Amy turns 13 during the year.
 - b. Rose may claim a credit based on expenses incurred before July 1, 2003.
 - c. Rose may claim a full dependent care credit for 2003 because Amy is incapable of self-care.

2. The child tax credit applies only for someone who has not attained which of the following ages by the end of the year:
 - a. 14
 - b. 17
 - c. 18

3. Which of the following statements is correct:
 - a. Contributions to Coverdell ESAs can be made only until a beneficiary turns age 18.
 - b. Under the Internal Revenue Code, contributions to a 529 plan can only be made until a beneficiary turns age 18.
 - c. For contribution purposes, there are no age restrictions on Coverdell ESAs and 529 plans.

4. Generally, funds in a Coverdell ESA must be distributed within 30 days of the beneficiary attaining age 30. Which of the following statements about avoiding a distribution is correct:
 - a. Immediate taxation can be avoided by rolling over the balance to a member of the beneficiary's family who is under age 30.
 - b. The age 30 trigger does not apply if the beneficiary is a special needs beneficiary.
 - c. Both a. and b.

5. Harriet turns age 50 during 2003. What is the maximum amount she can contribute to her company's 401(k) plan (assuming the plan allows for these maximum contributions).
 - a. \$11,000
 - b. \$12,000
 - c. \$13,000
 - d. \$14,000

6. George turns age 50 during 2003. What is the maximum amount he can contribute to his Roth IRA (assuming his AGI permits maximum contributions):
- a. \$3,000
 - b. \$3,500
 - c. \$4,000
 - d. \$5,000
7. Ed is 45 years old in 2003. He is an active participant in his company's qualified retirement plan and his modified AGI is \$45,000. Ed's maximum deductible IRA contribution for 2003 is:
- a. \$1,500
 - b. \$3,000
 - c. \$3,500
8. Karen is 58 years old in 2003. She withdraws \$25,000 from her IRA in a lump sum. She is subject to the 10% early distribution penalty unless:
- a. She is disabled.
 - b. She has already taken early retirement from her company.
 - c. Both a. and b.
9. Donna is 71 years old and is still employed. Her husband John is 69 years old. Which of the following statements is *incorrect*:
- a. Donna can contribute to an IRA on behalf of John.
 - b. Donna's employer can contribute to its SEP plan on behalf of Donna.
 - c. Donna can neither contribute to an IRA on behalf of John nor receive any employer contributions under a SEP or SIMPLE-IRA.
10. Harvey's 70th birthday is February 1, 2003. For purposes of IRA distributions, the last date for his first distribution is:
- a. December 31, 2003
 - b. April 1, 2004
 - c. December 31, 2004
11. Which statement about the IRS website is correct:
- a. Research on the IRS site is highly intuitive.
 - b. There is a fee for accessing the IRS website.
 - c. Anyone can obtain IRS forms and publications, rulings and news releases.
12. The IRS standard mileage rate for business use of a car in 2003 is:
- a. 34.5¢ per mile
 - b. 36¢ per mile
 - c. 36.5 ¢ per mile

13. Which of the following statements about the per diem travel rates for FY 2003 is incorrect:
- a. The overall rates for the high-low substantiation method are generally unchanged from the rates for FY 2002.
 - b. The definition of incidental expenses has been changed effective for expenses incurred after December 31, 2002.
 - c. The list of high-cost areas remains unchanged from the list for FY 2002.
14. Which of the following statements about FICA in 2003 is *incorrect*:
- a. The rates for the Social Security and Medicare portions of FICA remain unchanged.
 - b. The wage base for the Social Security portion of FICA remains unchanged.
 - c. The wage base for the Nanny tax has been increased.
15. Assume there is an S corporation owned entirely by one person. This owner provides professional services on behalf of the corporation and also serves as the corporation's president. Which of the following statements is correct:
- a. In the case of an S corporation, since income passes through to an owner-employee, there can be no employer-employee relationship for FICA purposes.
 - b. An owner who provides services for his corporation must take a reasonable salary on which FICA tax must be paid.
 - c. A corporate officer cannot be an employee of the corporation.
16. All of the following limitations affecting qualified retirement plans for 2003 remain unchanged from 2002 limitations *except*:
- a. The maximum amount of compensation that can be taken into account in determining benefits and contributions
 - b. The maximum deductible contribution to a defined contribution plan
 - c. The dollar limit for determining the account balance in an ESOP subject to a five-year distribution period
17. Craig, age 52, is a small business owner who maintains a SIMPLE-IRA. In 2003, Craig can make an elective deferral of up to:
- a. \$8,000
 - b. \$9,000
 - c. \$12,000
 - d. \$14,000



18. In 2001, Abe, age 72, retired from his job after 35 years and took a lump-sum distribution from his company's qualified retirement plan. He paid tax on the distribution using 10-year averaging. In 2003, his company discovered that it distributed \$5,000 too much and asked him to repay it, which he did. On his 2003 return, Abe can:
- a. Deduct the \$5,000 as a miscellaneous itemized deduction subject to the 2%-of-AGI floor
 - b. Deduct the \$5,000 as a miscellaneous itemized deduction or a tax credit (based on recomputation of the tax in the year the income was received)
 - c. Neither a nor b – the repayment is not deductible
19. All of the following requirements must be satisfied to obtain a recovery of attorney's fees from the government *except*:
- a. Incur fees over a set dollar amount
 - b. Exhaust administrative remedies
 - c. Show that the IRS position was not substantially justified
20. The IRS interest rate on an individual's underpayment of taxes for the first quarter of 2003 is:
- a. 4%
 - b. 5%
 - c. 7%



Notes



CCH CPE Course Spotlight**INDIVIDUAL INCOME TAX REFRESHER COURSE—2003 Edition**

Noted tax educator, Sidney Kess, updates one of CCH's most popular continuing professional education courses to provide insights on the latest new developments affecting 2002 individual income tax returns. CCH's Individual Income Tax Refresher Course (2003 Edition) takes the practitioner step-by-step through the 2002 Form 1040, helpfully informing about tax preparation basics and new developments including new credits, exclusions, form changes, and planning tips.

Topics include:

- ◆ Tax return changes for 2002
- ◆ Leading cases and rulings for 2002
- ◆ Important legislative changes that are effective this year
- ◆ Filing requirements
- ◆ Gross income
- ◆ Exclusions
- ◆ Adjustments to gross income
- ◆ Business income and expenses
- ◆ Itemized deductions
- ◆ Tax credits
- ◆ Alternative minimum tax
- ◆ Estimated tax rules
- ◆ Planning opportunities

Course consists of six audiocassettes, one Study Guide/Quizzer, and CCH's *Individual Filled-In Tax Return Forms*.

Course level: Update.

Prerequisite: None.

Pub.: December 2002.

Recommended CPE: 14 credits (National Registry) 28 credits (QAS).

Field of Study: Taxation

Copies of this course are available from **CCH INCORPORATED**, 4025 W. Peterson Avenue, Chicago, Illinois 60646-6085.

To order by phone, call 1-800-248-3248, priority code Y0401.

Course Offer # 0-0931-101.

Price: \$175.00

(Add'l Study Guide/Quizzer: \$95.00. Offer #0-0831-101).



(00867101)

CCH CPE CREDIT SERVICE

Supplement to **CCH INCORPORATED**

January 2003

Please type or print clearly:

Name _____

Company Name _____

Address _____

City _____ State _____ Zip _____

Phone _____ Date of Completion _____

Social Security Number _____

CCH Account No. _____ Express Grading—\$15.00

Method of Payment:

CCH Account Visa Master Card Discover

American Express Check Enclosed

Card No. _____ Exp. Date _____

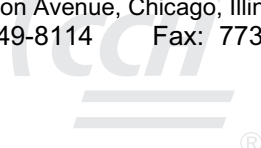
Signature _____

Before completing this Quizzer, please read the instructions located before the Quizzer questions. A \$21.00 processing fee will be billed to your CCH Account or designated charge card, or you may enclose a check payable to CCH INCORPORATED.

Write your answers here:

- | | | | | |
|----------|----------|-----------|-----------|-----------|
| 1. _____ | 5. _____ | 9. _____ | 13. _____ | 17. _____ |
| 2. _____ | 6. _____ | 10. _____ | 14. _____ | 18. _____ |
| 3. _____ | 7. _____ | 11. _____ | 15. _____ | 19. _____ |
| 4. _____ | 8. _____ | 12. _____ | 16. _____ | 20. _____ |

Mail or fax the completed answer sheet to:
CCH INCORPORATED
Continuing Education Department
4025 W. Peterson Avenue, Chicago, Illinois 60646-6085
1-800-449-8114 Fax: 773-866-3084 84183



Notes

