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## IRS Updates Model Language for Traditional, Roth, and SIMPLE IRAs

On June 16, 2010, the Internal Revenue Service (IRS) updated its Listings of Required Modification (LRMs) for [Traditional IRAs](#), [Roth IRAs](#), and [SIMPLE IRAs](#). The IRS provides the LRMs as model language to assist sponsors in drafting IRA trust and custodial agreements and annuity contract endorsements. Though slightly revised in 2007 to reflect changes under the Pension Protection Act of 2006 (PPA), the LRMs have remained largely the same since the last substantial update in 2002 for the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA).

The newly revised LRMs include a number of substantive additions meant to incorporate applicable provisions of the Worker, Retiree, and Employer Recovery Act of 2008 and the Heroes Earnings Assistance and Relief Tax Act of 2008. The most significant additions are listed below. As noted, some of these changes apply to all IRAs, while others are specific to certain types of IRAs.

<b>Provision</b>	<b>Applicability</b>
Clarifying the application of the required minimum distribution (RMD) rules to inherited IRAs.	Traditional IRAs and Roth IRAs
Explicitly stating that regular contributions cannot be made to inherited IRAs.	Traditional IRAs and Roth IRAs
Clarifying that the beneficiary of an inherited IRA cannot take RMDs from other IRAs owned by the beneficiary, except as noted immediately below.	Traditional IRAs and SIMPLE IRAs
Clarifying that the beneficiary of an inherited IRA can take RMDs from other IRAs owned by the beneficiary if the other IRAs were originally established by the same decedent.	Traditional IRAs, Roth IRAs, and SIMPLE IRAs
Amending the definition of "compensation" to include differential wage payments.	Traditional IRAs and Roth IRAs
Allowing rollovers of: <ul style="list-style-type: none"> <li>▪ amounts received from military death gratuity or servicemembers' group life insurance, and</li> <li>▪ amounts received as part of an "airline payment."</li> </ul>	Roth IRAs
Allowing contributions in excess of the normal limits in the case of repayments of distributions made on account of a federally declared disaster.	Traditional IRAs and Roth IRAs

The IRS has not yet indicated whether these changes are required to be made to IRA documents and whether there is a time frame in which the changes must be made. The IRS has also not announced whether prototype IRA documents with existing opinion letters must be resubmitted for new opinion letters if they are amended to incorporate the changes. When the IRS made changes to the IRA LRMs in 2002 to reflect most of the EGTRRA provisions, the IRS required sponsors to amend documents and file for new prototype opinion letters. On the other hand, when the IRS revised the Roth IRA LRMs in 2007 for rollovers of Roth contributions permitted under EGTRRA, it required sponsors to amend documents but

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did not require sponsors to resubmit for new opinion letters. It is not clear which approach the IRS will take with regard to certain LRM changes made in 2007 for PPA and the most recent changes, but the IRS has said informally that it plans to provide further guidance.



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