

*Application Booklet*

Non-Designated Financial Institution  
SIMPLE IRA (5304)





## ***Table of Contents***

Privacy Notice	1-1
Instructions for Self-Directed SIMPLE IRA	2-1
SIMPLE IRA Application	3-1
IRA Rollover Certification	3-4
Form 5304-SIMPLE (To Establish Plan)	4-1
Form 5305-S (To Establish Plan)	5-1
Disclosure	6-1
Schedule of Trustee Fees	7-1

FACTS	WHAT DOES EQUITY TRUST COMPANY DO WITH YOUR PERSONAL INFORMATION?	
<b>Why?</b>	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.	
<b>What?</b>	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>▪ Social Security number and account transactions</li> <li>▪ Account balances and transaction history</li> <li>▪ Assets and investment experience</li> </ul> <p>When you are <i>no longer</i> our customer, we continue to share your information as described in this notice.</p>	
<b>How?</b>	All financial companies need to share customers personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers personal information; the reasons Equity Trust Company chooses to share; and whether you can limit this sharing.	
Reasons we can share your personal information	Does Equity Trust Company share?	Can you limit this sharing?
<b>For our everyday business purposes—</b> such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	<b>Yes</b>	<b>No</b>
<b>For our marketing purposes—</b> to offer our products and services to you	<b>Yes</b>	<b>No</b>
<b>For joint marketing with other financial companies</b>	<b>No</b>	<b>We don't share</b>
<b>For our affiliates' everyday business purposes—</b> information about your transactions and experiences	<b>Yes</b>	<b>No</b>
<b>For our affiliates' everyday business purposes—</b> information about your creditworthiness	<b>No</b>	<b>We don't share</b>
<b>For our affiliates to market to you</b>	<b>No</b>	<b>We don't share</b>
<b>For non-affiliates to market to you</b>	<b>No</b>	<b>We don't share</b>
<b>Questions?</b>	Call 800-209-9010 or go to <a href="http://www.trustetc.com/professionals/directed-trustee-services">www.trustetc.com/professionals/directed-trustee-services</a>	

Who we are	
Who is providing this notice?	Equity Trust Company
What we do	
How does Equity Trust Company protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.
How does Equity Trust Company collect my personal information?	<p>We collect your personal information, for example, when you:</p> <ul style="list-style-type: none"> <li>▪ Open an account or direct us to buy or sell securities</li> <li>▪ Make deposits or withdrawals from your account</li> <li>▪ Provide account information or give us your contact information</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
Why can't I limit all sharing?	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> <li>▪ sharing for affiliates' everyday business purposes—information about your creditworthiness</li> <li>▪ affiliates from using your information to market to you</li> <li>▪ sharing for non-affiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing.</p>
Definitions	
<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>▪ <i>Our affiliates include financial companies, such as ETC Brokerage Services LLC, Equity Advisor Solutions LLC, and Equity Administrative Services, Inc.; non-financial companies, such as Retirement Education Group, Inc. d/b/a Equity University and Investors United Title Corp.</i></li> </ul>
<b>Non-Affiliates</b>	<p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>▪ <i>Equity Trust Company does not share with non-affiliates so they can market to you.</i></li> </ul>
<b>Joint marketing</b>	<p>A formal agreement between non-affiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> <li>▪ <i>Equity Trust Company does not jointly market.</i></li> </ul>

## **Consult With Your Attorney**

Carefully read the enclosed information. Please consult with your attorney or tax advisor if you are thinking about starting your own trust.

## **Disclosure Statement & Trust Agreement**

Before you complete any forms, read the Disclosure Statement and Trust Agreement in their entirety.

## **What is Required to Establish an Individual Retirement Trust?**

When you decide to start your program, complete the application and Form 5305-S found in this package and forward to Equity Trust Company.

## **Application and Form 5305-S**

This application and Form 5305-S are the basic legal documents through which you join the Trust. They should be carefully considered. Please complete and sign the application and Form 5305-S. Send the originals to Equity Trust Company. Make one copy for your records and provide one copy to your investment executive. We cannot accept an incomplete or unsigned application. We have provided Form 5304-SIMPLE for your convenience. Please complete this form for your records.

## **IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT**

To help the government fight the funding of terrorism and money laundering activities, Federal law requires Equity Trust Company to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

## **Trust Installation and Notice**

Individual accounts will be opened by your broker. The title of the account will be as follows:

Equity Trust Company, Trustee

FBO (Name of Account Holder), SIMPLE IRA

## **Account Executive Note:**

Set the account up so that duplicate statements are sent to:

Equity Trust Company  
Attn: DTS  
P. O. Box 45274  
Westlake, OH 44145

## **Investments**

It is your responsibility to direct the investment of the Trust funds. Investment directions may be given directly to your brokerage firm. Investment confirmations will be sent to you by the brokerage firm.

Trustees are required to furnish participants with a statement of the value of their account by January 31 each year. Because Equity Trust Company is a non-depository directed trustee, we must rely on the regularly issued brokerage/investment statements that are issued to you to meet this requirement.

The facilities of your brokerage firm will be available to you so that you may obtain research material in connection with your investments. Your brokerage firm will receive only brokerage commissions or appropriate dealer markups for the purchase and sale of securities within your account.

The brokerage firm cannot exercise discretion or control over your account, unless you are using the services of a registered investment advisor. Although they may provide investment information and advice to you, they do not intend that any advice given by them will serve as the primary basis for your investment decisions. Furthermore, it is our understanding that you will exercise independent judgment in making investment decisions.

## **Contributions**

Important: Forward all contributions to your brokerage firm. To make sure the contributions are associated with the proper tax year, the brokerage firm's cash statement must designate the tax year for which the contribution is made. If no year is designated, the contribution will be considered made in the tax year in which it is deposited. If you make a Rollover, the brokerage firm's cash statement must indicate "RO" next to the asset(s) received.

**Note:** With the exception of rollovers, contributions in excess of the allowable amount per year (as indexed), plus excess of allowable catch-up contributions (as indexed) (or such limits as may be established by law) cannot be accepted. Do not over-invest as this will cause a debit balance and may disqualify your Plan. Commissions are part of the cost of the investment and may not be paid separately.

## **Mailing Instructions**

Send to:

TradeStation Securities  
8050 SW 10th Street  
Suite 2000  
Plantation, FL 33324-3205

## **Fair Market Value**

As a non-depository directed trustee, we are required to submit the December 31 fair market value of your account to the Internal Revenue Service each year. We request this information annually from your brokerage/investment firm and provide it to the IRS. If your brokerage/investment firm does not provide this information, we will request this information from you. In the event that we do not receive the fair market value of your account, we will report the last value reported to us to the IRS. We strongly recommend that you carefully monitor your account at all times and contact your brokerage/investment firm if you do not receive a statement with the December 31 fair market value of your account by January 31.

For certain types of investments, particularly limited partnerships and private placement investments, a valuation of zero may be reflected when the investment sponsor reports the investment as having no market value or if the investment sponsor is in bankruptcy.

## **Important Information on "Float"**

Float is interest that is earned on funds held by service providers, generally in short term investments, pending investment or the cashing of outstanding benefit checks.

The DOL does not consider the retention of float by service providers to be a prohibited transaction under the Employee Retirement Income Security Act of 1974 (ERISA) if several guidelines are followed. You may view a copy of the details of the DOL's guidance on float at the following web address: <http://www.dol.gov/ebsa/regs/fabmain.html>.

Equity Trust Company may earn float on:

- Contributions awaiting investment direction.
- Outstanding benefit distribution checks. Float is earned until the checks are cashed.
- Outstanding dividend checks. Float is earned until the checks are cashed.

Equity Trust Company tries to minimize float as much as possible. For instance:

- We mail checks the day we issue them. However, we do not have control over when the checks are cashed.
- Contributions and dividend checks are normally sent for investment on the day after they are received (hence, we would not earn float) or as soon as possible thereafter. Certain situations -e.g., lack of allocation or investment directions, etc.- slows down the allocation or investment of those funds.

We do not credit float directly to the plans or accounts for which we provide services because the cost to track the amount of float on a per plan or per account basis and allocate it to the plan participants or account would far exceed the amount of float earned. In the end, the amount that we earn on float helps us keep our fees down. Please contact your Equity Trust Company representative at (800) 209-9010 if you have questions.

## **Records**

It is extremely important for you to keep good records covering your contributions and investments. Remember that you assume the responsibility for filing all Federal and State tax returns and forms required as an Account Holder of a SIMPLE IRA.

(Note: Our Federal Tax ID number should appear when opening cash accounts. It is 05-0552743. When a cash account is opened, both Trustee & Account Holder must receive a statement).

**1. IRA REGISTRATION**

NAME (Employee)			
MAILING ADDRESS	CITY	STATE	ZIP CODE
DAYTIME PHONE NUMBER		EVENING PHONE NUMBER	
DATE OF BIRTH		SOCIAL SECURITY NUMBER	

**2. BENEFICIARY DESIGNATION**

Designate your IRA Beneficiaries by printing the requested information below. If you want to name additional beneficiaries, please list the requested information on a separate sheet and attach it to this form.

**A. Primary Beneficiaries (Please provide at least one Primary Beneficiary)**

NAME		RELATIONSHIP
SOCIAL SECURITY NUMBER	DATE OF BIRTH	PERCENTAGE %
NAME		RELATIONSHIP
SOCIAL SECURITY NUMBER	DATE OF BIRTH	PERCENTAGE %

**B. Contingent Beneficiaries**

Equity Trust Company will distribute your IRA to your Contingent Beneficiaries only if there are no surviving Primary Beneficiaries at the time of your death. If this occurs, your Contingent Beneficiaries will share equally in your IRA, unless you specify different percentages (totaling 100%) below. If there are no surviving Primary or Contingent Beneficiaries at the time of your death, Equity Trust Company will distribute your IRA to your spouse; if your spouse preceded you in death; the Beneficiary shall be your estate.

NAME		RELATIONSHIP
SOCIAL SECURITY NUMBER	DATE OF BIRTH	PERCENTAGE %
NAME		RELATIONSHIP
SOCIAL SECURITY NUMBER	DATE OF BIRTH	PERCENTAGE %

**Note:**

- Please consult with your tax and/or legal advisor on the enforceability of your beneficiary designation under your particular state laws.
- If your designated beneficiary is your spouse, (designated either by name or relationship or both), your divorce or annulment or other legal termination of your marriage will automatically revoke your beneficiary designation.
- If you name a trust as beneficiary or your IRA, Equity Trust Company requires a copy of the full trust document.
- If more than one Primary and/or Contingent is designated and no percentages are indicated, equal percentages totaling 100% will be allocated to each beneficiary.

**3. SIGNATURE AND TRUST AGREEMENT**

The undersigned Applicant hereby adopts IRS Form 5304 SIMPLE plan document. Under penalties of perjury, the Applicant certifies the Social Security numbers provided on this form are true and correct. The applicant certifies that they have read and understand the Disclosure material.

APPLICANT'S SIGNATURE	DATE
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**To be Completed by Employer**

REPRESENTATIVE'S NAME	AUTHORIZED SIGNATURE		
EMPLOYER'S IDENTIFICATION NUMBER	EMPLOYER'S TELEPHONE NUMBER		
NAME OF APPLICANT'S INVESTMENT FIRM	APPLICANT'S ACCOUNT NUMBER (Issued by Investment Firm)		
ADDRESS OF INVESTMENT FIRM			
CITY	STATE	ZIP CODE	PHONE NUMBER OF INVESTMENT FIRM

**Acceptance of Trustee**

The foregoing Application is hereby approved by the Trustee this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Attest \_\_\_\_\_ by \_\_\_\_\_



**1 CUSTOMER INFORMATION**

NAME		ACCOUNT NUMBER	
ADDRESS	CITY	STATE	ZIP CODE
SOCIAL SECURITY NUMBER	DATE OF BIRTH	DAYTIME PHONE NUMBER	

**2 CERTIFICATION**

Please select the appropriate choice.

- ☐ Traditional IRA or SIMPLE IRA to Traditional IRA Rollover  
I certify:
1. It has been less than 60 days since I received the funds or property being deposited.
  2. I did not receive any other distributions from an IRA during the preceding 12 months which I also rolled over.
  3. The assets involved in this rollover have not been rolled over in the past 12 months.
  4. If over 70 ½ (or age 72 if after 1/1/2020), I have satisfied my required minimum distribution for the year.
  5. SIMPLE IRA only - it has been at least two (2) years since I first began participating in a SIMPLE IRA plan sponsored by my employer.
- ☐ Roth IRA to Roth IRA Rollover  
I certify:
1. It has been less than 60 days since the funds or property being deposited.
  2. I did not receive any other distributions from an IRA during the preceding 12 months which you also rolled over.
  3. The assets involved in this rollover have not been rolled over in the past 12 months.
- ☐ Rollover or Direct Rollover from Qualified Plan to a Traditional IRA  
I certify:
1. I am an eligible participant (participant, spouse beneficiary, or former spouse due to divorce).
  2. It has been less than 60 days since I received the funds or property being deposited.
  3. I received these funds from an eligible qualified retirement plan.
  4. If over 70 1/2 (or age 72 if after 1/1/2020), I have satisfied my required minimum distribution for the year.
  5. The rollover consists only on funds or property distributed from the qualified plan or the proceeds from the sale of the property distributed from the qualified plan.
  6. All of the funds included are eligible to be rolled over.
- ☐ Traditional IRA to a Roth IRA Rollover (Indirect conversion)  
I certify:
1. It has been less than 60 days since I received the funds or property being deposited.
  2. If over 70 ½ (or age 72 if after 1/1/2020), I have satisfied my required minimum distribution for the year.

**3 SIGNATURE AND DATE**

I am familiar with and understand the rollover rules and conditions. I certify that I met the requirements for making a rollover contribution. Due to the important tax consequences of rolling over funds or property to an IRA, I understand that the Trustee cannot and has not provided tax advice. I release, indemnify and hold the Trustee harmless against any liabilities I may incur as a result of this transaction. By signing this agreement, I understand that I have irrevocably designated this contribution as a rollover contribution.

SIGNATURE	DATE
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**Savings Incentive Match Plan  
for Employees of Small Employers (SIMPLE)—Not  
for Use With a Designated Financial Institution**

**Do not file  
with the Internal  
Revenue Service**

\_\_\_\_\_ establishes the following SIMPLE  
Name of Employer  
IRA plan under section 408(p) of the Internal Revenue Code and pursuant to the instructions contained in this form.

**Article I—Employee Eligibility Requirements** *(complete applicable box(es) and blanks—see instructions)*

- 1 General Eligibility Requirements.** The Employer agrees to permit salary reduction contributions to be made in each calendar year to the SIMPLE IRA established by each employee who meets the following requirements (select either 1a or 1b):
- a** ☐ **Full Eligibility.** All employees are eligible.
- b** ☐ **Limited Eligibility.** Eligibility is limited to employees who are described in both (i) and (ii) below:
- (i) Current compensation.** Employees who are reasonably expected to receive at least \$ \_\_\_\_\_ in compensation (not to exceed \$5,000) for the calendar year.
- (ii) Prior compensation.** Employees who have received at least \$ \_\_\_\_\_ in compensation (not to exceed \$5,000) during any \_\_\_\_\_ calendar year(s) (insert 0, 1, or 2) preceding the calendar year.
- 2 Excludable Employees.**
- ☐ The Employer elects to exclude employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining. **Note:** *This box is deemed checked if the Employer maintains a qualified plan covering only such employees.*

**Article II—Salary Reduction Agreements** *(complete the box and blank, if applicable—see instructions)*

- 1 Salary Reduction Election.** An eligible employee may make an election to have his or her compensation for each pay period reduced. The total amount of the reduction in the employee's compensation for a calendar year cannot exceed the applicable amount for that year.
- 2 Timing of Salary Reduction Elections**
- a** For a calendar year, an eligible employee may make or modify a salary reduction election during the 60-day period immediately preceding January 1 of that year. However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.
- b** In addition to the election periods in 2a, eligible employees may make salary reduction elections or modify prior elections \_\_\_\_\_, \_\_\_\_\_. If the Employer chooses this option, insert a period or periods (for example, semi-annually, quarterly, monthly, or daily) that will apply uniformly to all eligible employees.
- c** No salary reduction election may apply to compensation that an employee received, or had a right to immediately receive, before execution of the salary reduction election.
- d** An employee may terminate a salary reduction election at any time during the calendar year. ☐ If this box is checked, an employee who terminates a salary reduction election not in accordance with 2b may not resume salary reduction contributions during the calendar year.

**Article III—Contributions** *(complete the blank, if applicable—see instructions)*

- 1 Salary Reduction Contributions.** The amount by which the employee agrees to reduce his or her compensation will be contributed by the Employer to the employee's SIMPLE IRA.
- 2a Matching Contributions**
- (i)** For each calendar year, the Employer will contribute a matching contribution to each eligible employee's SIMPLE IRA equal to the employee's salary reduction contributions up to a limit of 3% of the employee's compensation for the calendar year.
- (ii)** The Employer may reduce the 3% limit for the calendar year in (i) only if:
- (1)** The limit is not reduced below 1%; **(2)** The limit is not reduced for more than 2 calendar years during the 5-year period ending with the calendar year the reduction is effective; and **(3)** Each employee is notified of the reduced limit within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).
- b Nonelective Contributions**
- (i)** For any calendar year, instead of making matching contributions, the Employer may make nonelective contributions equal to 2% of compensation for the calendar year to the SIMPLE IRA of each eligible employee who has at least \$ \_\_\_\_\_, (not more than \$5,000) in compensation for the calendar year. No more than \$250,000\* in compensation can be taken into account in determining the nonelective contribution for each eligible employee.
- (ii)** For any calendar year, the Employer may make 2% nonelective contributions instead of matching contributions only if:
- (1)** Each eligible employee is notified that a 2% nonelective contribution will be made instead of a matching contribution; and
- (2)** This notification is provided within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).
- 3 Time and Manner of Contributions**
- a** The Employer will make the salary reduction contributions (described in 1 above) for each eligible employee to the SIMPLE IRA established at the financial institution selected by that employee no later than 30 days after the end of the month in which the money is withheld from the employee's pay. See instructions.
- b** The Employer will make the matching or nonelective contributions (described in 2a and 2b above) for each eligible employee to the SIMPLE IRA established at the financial institution selected by that employee no later than the due date for filing the Employer's tax return, including extensions, for the taxable year that includes the last day of the calendar year for which the contributions are made.

\* This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS's internet website at **IRS.gov**.

**Article IV—Other Requirements and Provisions**

- 1 Contributions in General.** The Employer will make no contributions to the SIMPLE IRAs other than salary reduction contributions (described in Article III, item 1) and matching or nonelective contributions (described in Article III, items 2a and 2b).
- 2 Vesting Requirements.** All contributions made under this SIMPLE IRA plan are fully vested and nonforfeitable.
- 3 No Withdrawal Restrictions.** The Employer may not require the employee to retain any portion of the contributions in his or her SIMPLE IRA or otherwise impose any withdrawal restrictions.
- 4 Selection of IRA Trustee.** The Employer must permit each eligible employee to select the financial institution that will serve as the trustee, custodian, or issuer of the SIMPLE IRA to which the Employer will make all contributions on behalf of that employee.
- 5 Amendments To This SIMPLE IRA Plan.** This SIMPLE IRA plan may not be amended except to modify the entries inserted in the blanks or boxes provided in Articles I, II, III, VI, and VII.
- 6 Effects Of Withdrawals and Rollovers**
  - a** An amount withdrawn from the SIMPLE IRA is generally includible in gross income. However, a SIMPLE IRA balance may be rolled over or transferred on a tax-free basis to another IRA designed solely to hold funds under a SIMPLE IRA plan. In addition, an individual may roll over or transfer his or her SIMPLE IRA balance to any IRA or eligible retirement plan after a 2-year period has expired since the individual first participated in any SIMPLE IRA plan of the Employer. Any rollover or transfer must comply with the requirements under section 408.
  - b** If an individual withdraws an amount from a SIMPLE IRA during the 2-year period beginning when the individual first participated in any SIMPLE IRA plan of the Employer and the amount is subject to the additional tax on early distributions under section 72(t), this additional tax is increased from 10% to 25%.

**Article V—Definitions**

- 1 Compensation**
  - a General Definition of Compensation.** Compensation means the sum of the wages, tips, and other compensation from the Employer subject to federal income tax withholding (as described in section 6051(a)(3)), the amounts paid for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, and the employee's salary reduction contributions made under this plan, and, if applicable, elective deferrals under a section 401(k) plan, a SARSEP, or a section 403(b) annuity contract and compensation deferred under a section 457 plan required to be reported by the Employer on Form W-2 (as described in section 6051(a)(8)).
  - b Compensation for Self-Employed Individuals.** For self-employed individuals, compensation means the net earnings from self-employment determined under section 1402(a), without regard to section 1402(c)(6), prior to subtracting any contributions made pursuant to this plan on behalf of the individual.
- 2 Employee.** Employee means a common-law employee of the Employer. The term employee also includes a self-employed individual and a leased employee described in section 414(n) but does not include a nonresident alien who received no earned income from the Employer that constitutes income from sources within the United States.
- 3 Eligible Employee.** An eligible employee means an employee who satisfies the conditions in Article I, item 1 and is not excluded under Article I, item 2.
- 4 SIMPLE IRA.** A SIMPLE IRA is an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b), to which the only contributions that can be made are contributions under a SIMPLE IRA plan and rollovers or transfers from another SIMPLE IRA.

**Article VI—Procedures for Withdrawals** *(The Employer will provide each employee with the procedures for withdrawals of contributions received by the financial institution selected by that employee, and that financial institution's name and address (by attaching that information or inserting it in the space below) unless: (1) that financial institution's procedures are unavailable, or (2) that financial institution provides the procedures directly to the employee. See **Employee Notification** in the instructions.)*

**Article VII—Effective Date**

This SIMPLE IRA plan is effective \_\_\_\_\_ . See instructions.

\* \* \* \* \*

\_\_\_\_\_  
Name of Employer

\_\_\_\_\_  
By: Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address of Employer

\_\_\_\_\_  
Name and title

## Model Notification to Eligible Employees

### I. Opportunity to Participate in the SIMPLE IRA Plan

You are eligible to make salary reduction contributions to the \_\_\_\_\_ SIMPLE IRA plan. This notice and the attached summary description provide you with information that you should consider before you decide whether to start, continue, or change your salary reduction agreement.

### II. Employer Contribution Election

For the \_\_\_\_\_ calendar year, the Employer elects to contribute to your SIMPLE IRA (*employer must select either (1), (2), or (3)*):

- ☐ **(1)** A matching contribution equal to your salary reduction contributions up to a limit of 3% of your compensation for the year;
- ☐ **(2)** A matching contribution equal to your salary reduction contributions up to a limit of \_\_\_\_\_ % (*employer must insert a number from 1 to 3 and is subject to certain restrictions*) of your compensation for the year; or
- ☐ **(3)** A nonelective contribution equal to 2% of your compensation for the year (limited to compensation of \$250,000\*) if you are an employee who makes at least \$ \_\_\_\_\_ (*employer must insert an amount that is \$5,000 or less*) in compensation for the year.

### III. Administrative Procedures

To start or change your salary reduction contributions, you must complete the salary reduction agreement and return it to \_\_\_\_\_ (employer should designate a place or individual by \_\_\_\_\_ (*employer should insert a date that is not less than 60 days after notice is given*)).

### IV. Employee Selection of Financial Institution

You must select the financial institution that will serve as the trustee, custodian, or issuer of your SIMPLE IRA and notify your Employer of your selection.

## Model Salary Reduction Agreement

### I. Salary Reduction Election

Subject to the requirements of the SIMPLE IRA plan of \_\_\_\_\_ (*name of employer*) I authorize \_\_\_\_\_ % or \$ \_\_\_\_\_ (which equals \_\_\_\_\_ % of my current rate of pay) to be withheld from my pay for each pay period and contributed to my SIMPLE IRA as a salary reduction contribution.

### II. Maximum Salary Reduction

I understand that the total amount of my salary reduction contributions in any calendar year cannot exceed the applicable amount for that year. See instructions.

### III. Date Salary Reduction Begins

I understand that my salary reduction contributions will start as soon as permitted under the SIMPLE IRA plan and as soon as administratively feasible or, if later, \_\_\_\_\_. (*Fill in the date you want the salary reduction contributions to begin. The date must be after you sign this agreement.*)

### IV. Employee Selection of Financial Institution

I select the following financial institution to serve as the trustee, custodian, or issuer of my SIMPLE IRA.

\_\_\_\_\_  
Name of financial institution

\_\_\_\_\_  
Address of financial institution

\_\_\_\_\_  
SIMPLE IRA account name and number

I understand that I must establish a SIMPLE IRA to receive any contributions made on my behalf under this SIMPLE IRA plan. If the information regarding my SIMPLE IRA is incomplete when I first submit my salary reduction agreement, I realize that it must be completed by the date contributions must be made under the SIMPLE IRA plan. If I fail to update my agreement to provide this information by that date, I understand that my Employer may select a financial institution for my SIMPLE IRA.

### V. Duration of Election

This salary reduction agreement replaces any earlier agreement and will remain in effect as long as I remain an eligible employee under the SIMPLE IRA plan or until I provide my Employer with a request to end my salary reduction contributions or provide a new salary reduction agreement as permitted under this SIMPLE IRA plan.

Signature of employee \_\_\_\_\_ Date \_\_\_\_\_

\* This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS website at **IRS.gov**.

## General Instructions

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

### Purpose of Form

Form 5304-SIMPLE is a model Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) plan document that an employer may use to establish a SIMPLE IRA plan described in section 408(p), under which each eligible employee is permitted to select the financial institution for his or her SIMPLE IRA.

These instructions are designed to assist in the establishment and administration of the SIMPLE IRA plan. They are not intended to supersede any provision in the SIMPLE IRA plan.

Do not file Form 5304-SIMPLE with the IRS. Instead, keep it with your records.

For more information, see Pub. 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), and Pub. 590, Individual Retirement Arrangements (IRAs).

**Note.** If you used the March 2002, August 2005, or September 2008 version of Form 5304-SIMPLE to establish a model Savings Incentive Match Plan, you are not required to use this version of the form.

### Which Employers May Establish and Maintain a SIMPLE IRA Plan?

To establish and maintain a SIMPLE IRA plan, you must meet both of the following requirements:

1. Last calendar year, you had no more than 100 employees (including self-employed individuals) who earned \$5,000 or more in compensation from you during the year. If you have a SIMPLE IRA plan but later exceed this 100-employee limit, you will be treated as meeting the limit for the 2 years following the calendar year in which you last satisfied the limit.

2. You do not maintain during any part of the calendar year another qualified plan with respect to which contributions are made, or benefits are accrued, for service in the calendar year. For this purpose, a qualified plan (defined in section 219(g)(5)) includes a qualified pension plan, a profit-sharing plan, a stock bonus plan, a qualified annuity plan, a tax-sheltered annuity plan, and a simplified employee pension (SEP) plan. A qualified plan that only covers employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining is disregarded if these employees are excluded from

participating in the SIMPLE IRA plan. If the failure to continue to satisfy the 100-employee limit or the one-plan rule described in 1 and 2 above is due to an acquisition or similar transaction involving your business, special rules apply. Consult your tax advisor to find out if you can still maintain the plan after the transaction.

Certain related employers (trades or businesses under common control) must be treated as a single employer for purposes of the SIMPLE IRA requirements. These are: (1) a controlled group of corporations under section 414(b); (2) a partnership or sole proprietorship under common control under section 414(c); or (3) an affiliated service group under section 414(m). In addition, if you have leased employees required to be treated as your own employees under the rules of section 414(n), then you must count all such leased employees for the requirements listed above.

### What Is a SIMPLE IRA Plan?

A SIMPLE IRA plan is a written arrangement that provides you and your employees with an easy way to make contributions to provide retirement income for your employees. Under a SIMPLE IRA plan, employees may choose whether to make salary reduction contributions to the SIMPLE IRA plan rather than receiving these amounts as part of their regular compensation. In addition, you will contribute matching or nonelective contributions on behalf of eligible employees (see *Employee Eligibility Requirements* below and *Contributions* later). All contributions under this plan will be deposited into a SIMPLE individual retirement account or annuity established for each eligible employee with the financial institution selected by him or her.

### When To Use Form 5304-SIMPLE

A SIMPLE IRA plan may be established by using this Model Form or any other document that satisfies the statutory requirements.

Do not use Form 5304-SIMPLE if:

1. You want to require that all SIMPLE IRA plan contributions initially go to a financial institution designated by you. That is, you do not want to permit each of your eligible employees to choose a financial institution that will initially receive contributions. Instead, use Form 5305-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—for Use With a Designated Financial Institution;

2. You want employees who are nonresident aliens receiving no earned income from you that is income from sources within the United States to be eligible under this plan; or

3. You want to establish a SIMPLE 401(k) plan.

### Completing Form 5304-SIMPLE

Pages 1 and 2 of Form 5304-SIMPLE contain the operative provisions of your SIMPLE IRA plan. This SIMPLE IRA plan is considered adopted when you have completed all applicable boxes and blanks and it has been executed by you.

The SIMPLE IRA plan is a legal document with important tax consequences for you and your employees. You may want to consult with your attorney or tax advisor before adopting this plan.

### Employee Eligibility Requirements (Article I)

Each year for which this SIMPLE IRA plan is effective, you must permit salary reduction contributions to be made by all of your employees who are reasonably expected to receive at least \$5,000 in compensation from you during the year, and who received at least \$5,000 in compensation from you in any 2 preceding years. However, you can expand the group of employees who are eligible to participate in the SIMPLE IRA plan by completing the options provided in Article I, items 1a and 1b. To choose full eligibility, check the box in Article I, item 1a. Alternatively, to choose limited eligibility, check the box in Article I, item 1b, and then insert "\$5,000" or a lower compensation amount (including zero) and "2" or a lower number of years of service in the blanks in (i) and (ii) of Article I, item 1b.

In addition, you can exclude from participation those employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining. You may do this by checking the box in Article I, item 2. Under certain circumstances, these employees must be excluded. See *Which Employers May Establish and Maintain a SIMPLE IRA Plan?* above.

### Salary Reduction Agreements (Article II)

As indicated in Article II, item 1, a salary reduction agreement permits an eligible employee to make a salary reduction election to have his or her compensation for each pay period reduced by a percentage (expressed as a percentage or dollar amount). The total amount of

the reduction in the employee's compensation cannot exceed the applicable amount for any calendar year. The applicable amount is \$11,500 for 2012. After 2012, the \$11,500 amount may be increased for cost-of-living adjustments. In the case of an eligible employee who is 50 or older by the end of the calendar year, the above limitation is increased by \$2,500 for 2012. After 2012, the \$2,500 amount may be increased for cost-of-living adjustments.

### Timing of Salary Reduction Elections

For any calendar year, an eligible employee may make or modify a salary reduction election during the 60-day period immediately preceding January 1 of that year. However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.

You can extend the 60-day election periods to provide additional opportunities for eligible employees to make or modify salary reduction elections using the blank in Article II, item 2b. For example, you can provide that eligible employees may make new salary reduction elections or modify prior elections for any calendar quarter during the 30 days before that quarter.

You may use the *Model Salary Reduction Agreement* on page 3 to enable eligible employees to make or modify salary reduction elections.

Employees must be permitted to terminate their salary reduction elections at any time. They may resume salary reduction contributions for the year if permitted under Article II, item 2b. However, by checking the box in Article II, item 2d, you may prohibit an employee who terminates a salary reduction election outside the normal election cycle from resuming salary reduction contributions during the remainder of the calendar year.

### Contributions (Article III)

Only contributions described below may be made to this SIMPLE IRA plan. No additional contributions may be made.

#### Salary Reduction Contributions

As indicated in Article III, item 1, salary reduction contributions consist of the amount by which the employee agrees to reduce his or her compensation. You must contribute the salary reduction contributions to the financial institution selected by each eligible employee.

### Matching Contributions

In general, you must contribute a matching contribution to each eligible employee's SIMPLE IRA equal to the employee's salary reduction contributions. This matching contribution cannot exceed 3% of the employee's compensation. See *Definition of Compensation*, below.

You may reduce this 3% limit to a lower percentage, but not lower than 1%. You cannot lower the 3% limit for more than 2 calendar years out of the 5-year period ending with the calendar year the reduction is effective.

**Note.** If any year in the 5-year period described above is a year before you first established any SIMPLE IRA plan, you will be treated as making a 3% matching contribution for that year for purposes of determining when you may reduce the employer matching contribution.

To elect this option, you must notify the employees of the reduced limit within a reasonable period of time before the applicable 60-day election periods for the year. See *Timing of Salary Reduction Elections* above.

### Nonelective Contributions

Instead of making a matching contribution, you may, for any year, make a nonelective contribution equal to 2% of compensation for each eligible employee who has at least \$5,000 in compensation for the year. Nonelective contributions may not be based on more than \$250,000\* of compensation.

To elect to make nonelective contributions, you must notify employees within a reasonable period of time before the applicable 60-day election periods for such year. See *Timing of Salary Reduction Elections* above.

**Note.** Insert "\$5,000" in Article III, item 2b(i) to impose the \$5,000 compensation requirement. You may expand the group of employees who are eligible for nonelective contributions by inserting a compensation amount lower than \$5,000.

### Effective Date (Article VII)

Insert in Article VII the date you want the provisions of the SIMPLE IRA plan to become effective. You must insert January 1 of the applicable year unless this is the first year for which you are adopting any SIMPLE IRA plan. If this is the first year for which you are adopting a SIMPLE IRA plan, you may insert any date between January 1 and October 1, inclusive of the applicable year.

## Additional Information

### Timing of Salary Reduction Contributions

The employer must make the salary reduction contributions to the financial institution selected by each eligible employee for his or her SIMPLE IRA no later than the 30th day of the month following the month in which the amounts would otherwise have been payable to the employee in cash.

The Department of Labor has indicated that most SIMPLE IRA plans are also subject to Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Under Department of Labor regulations at 29 CFR 2510.3-102, salary reduction contributions must be made to each participant's SIMPLE IRA as of the earliest date on which those contributions can reasonably be segregated from the employer's general assets, but in no event later than the 30-day deadline described previously.

### Definition of Compensation

"Compensation" means the amount described in section 6051(a)(3) (wages, tips, and other compensation from the employer subject to federal income tax withholding under section 3401(a)), and amounts paid for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority. Usually, this is the amount shown in box 1 of Form W-2, Wage and Tax Statement. For further information, see Pub. 15, (Circular E), Employer's Tax Guide. Compensation also includes the salary reduction contributions made under this plan, and, if applicable, compensation deferred under a section 457 plan. In determining an employee's compensation for prior years, the employee's elective deferrals under a section 401(k) plan, a SARSEP, or a section 403(b) annuity contract are also included in the employee's compensation.

For self-employed individuals, compensation means the net earnings from self-employment determined under section 1402(a), without regard to section 1402(c)(6), prior to subtracting any contributions made pursuant to this SIMPLE IRA plan on behalf of the individual.

### Employee Notification

You must notify each eligible employee prior to the employee's 60-day election period described above that he or she can make or change salary reduction elections and select the financial institution that will serve as the trustee, custodian, or

\*This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS's website at [IRS.gov](http://IRS.gov).

issuer of the employee's SIMPLE IRA. In this notification, you must indicate whether you will provide:

1. A matching contribution equal to your employees' salary reduction contributions up to a limit of 3% of their compensation;
2. A matching contribution equal to your employees' salary reduction contributions subject to a percentage limit that is between 1 and 3% of their compensation; or
3. A nonelective contribution equal to 2% of your employees' compensation.

You can use the *Model Notification to Eligible Employees* earlier to satisfy these employee notification requirements for this SIMPLE IRA plan. A *Summary Description* must also be provided to eligible employees at this time. This summary description requirement may be satisfied by providing a completed copy of pages 1 and 2 of Form 5304-SIMPLE (including the information described in *Article VI—Procedures for Withdrawals*).

If you fail to provide the employee notification (including the summary description) described above, you will be liable for a penalty of \$50 per day until the notification is provided. If you can show that the failure was due to reasonable cause, the penalty will not be imposed.

If the financial institution's name, address, or withdrawal procedures are not available at the time the employee must be given the summary description, you must provide the summary description without this information. In that case, you will have reasonable cause for not including this information in the summary description, but only if you ensure that it is provided to the employee as soon as administratively feasible.

## Reporting Requirements

You are not required to file any annual information returns for your SIMPLE IRA plan, such as Form 5500, Annual Return/Report of Employee Benefit Plan, or Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan. However, you must report to the IRS which eligible employees are active participants in the SIMPLE IRA plan and the amount of your employees' salary reduction contributions to the SIMPLE IRA plan on Form W-2. These contributions are subject to social security, Medicare, railroad retirement, and federal unemployment tax.

## Deducting Contributions

Contributions to this SIMPLE IRA plan are deductible in your tax year containing the end of the calendar year for which the contributions are made.

Contributions will be treated as made for a particular tax year if they are made for that year and are made by the due date (including extensions) of your income tax return for that year.

## Summary Description

Each year the SIMPLE IRA plan is in effect, the financial institution for the SIMPLE IRA of each eligible employee must provide the employer the information described in section 408(l)(2)(B). This requirement may be satisfied by providing the employer a current copy of Form 5304-SIMPLE (including instructions) together with the financial institution's procedures for withdrawals from SIMPLE IRAs established at that financial institution, including the financial institution's name and address. The summary description must be received by the employer in sufficient time to comply with the *Employee Notification* requirements earlier.

There is a penalty of \$50 per day imposed on the financial institution for each failure to provide the summary description described above. However, if the failure was due to reasonable cause, the penalty will not be imposed.

**Paperwork Reduction Act Notice.** You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is:

<b>Recordkeeping</b> . . . . .	3 hr., 38 min.
<b>Learning about the law or the form</b> . . . . .	2 hr., 26 min.
<b>Preparing the form</b> . . . . .	47 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this address. Instead, keep it with your records.



**SIMPLE Individual Retirement Trust Account**  
**(Under section 408(p) of the Internal Revenue Code)**

**Do not file**  
with the Internal  
Revenue Service

Name of participant	Date of birth of participant	Account number
Address of participant		Check if transfer SIMPLE IRA <input type="checkbox"/> Check if amendment <input type="checkbox"/>
Name of trustee	Address or principal place of business of trustee	

The participant named above is establishing a savings incentive match plan for employees of small employers individual retirement account (SIMPLE IRA) under sections 408(a) and 408(p) to provide for his or her retirement and for the support of his or her beneficiaries after death.

The trustee named above has given the participant the disclosure statement required by Regulations section 1.408-6.

The participant and the trustee make the following agreement.

**Article I**

The trustee will accept cash contributions made on behalf of the participant by the participant's employer under the terms of a SIMPLE IRA plan described in section 408(p). In addition, the trustee will accept transfers or rollovers from other SIMPLE IRAs of the participant and, after the 2-year period of participation defined in section 72(t)(6), transfers or rollovers from any eligible retirement plan (as defined in section 402(c)(8)(B)) other than a Roth IRA or a designated Roth account. No other contributions will be accepted by the trustee.

**Article II**

The participant's interest in the balance in the trust account is nonforfeitable.

**Article III**

1. No part of the trust account funds may be invested in life insurance contracts, nor may the assets of the trust account be commingled with other property except in a common trust fund or common investment fund (within the meaning of section 408(a)(5)).

2. No part of the trust account funds may be invested in collectibles (within the meaning of section 408(m)) except as otherwise permitted by section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

**Article IV**

1. Notwithstanding any provision of this agreement to the contrary, the distribution of the participant's interest in the trust account shall be made in accordance with the following requirements and shall otherwise comply with section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference.

2. The participant's entire interest in the trust account must be, or begin to be, distributed not later than the participant's required beginning date, April 1 following the calendar year in which the participant reaches age 70½. By that date, the participant may elect, in a manner acceptable to the trustee, to have the balance in the trust account distributed in:

(a) A single sum or

(b) Payments over a period not longer than the life of the participant or the joint lives of the participant and his or her designated beneficiary.

3. If the participant dies before his or her entire interest is distributed to him or her, the remaining interest will be distributed as follows.

(a) If the participant dies on or after the required beginning date and:

(i) The designated beneficiary is the participant's surviving spouse, the remaining interest will be distributed over the surviving spouse's life expectancy as determined each year until such spouse's death, or over the period in paragraph (a)(iii) below if longer. Any interest remaining after the spouse's death will be distributed over such spouse's remaining life expectancy as determined in the year of the spouse's death and reduced by 1 for each subsequent year, or, if distributions are being made over the period in paragraph (a)(iii) below, over such period.

(ii) The designated beneficiary is not the participant's surviving spouse, the remaining interest will be distributed over the beneficiary's remaining life expectancy as determined in the year following the death of the participant and reduced by 1 for each subsequent year, or over the period in paragraph (a)(iii) below if longer.

(iii) There is no designated beneficiary, the remaining interest will be distributed over the remaining life expectancy of the participant as determined in the year of the participant's death and reduced by 1 for each subsequent year.

(b) If the participant dies before the required beginning date, the remaining interest will be distributed in accordance with paragraph (i) below or, if elected or there is no designated beneficiary, in accordance with paragraph (ii) below.

(i) The remaining interest will be distributed in accordance with paragraphs (a)(i) and (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), starting by the end of the calendar year following the year of the participant's death. If, however, the designated beneficiary is the participant's surviving spouse, then this distribution is not required to begin before the end of the calendar year in which the participant would have reached age 70½. But, in such case, if the participant's surviving spouse dies before distributions are required to begin, then the remaining interest will be distributed in accordance with paragraph (a)(ii) above (but not over the period in paragraph (a)(iii), even if longer), over such spouse's designated beneficiary's life expectancy, or in accordance with paragraph (ii) below if there is no such designated beneficiary.

(ii) The remaining interest will be distributed by the end of the calendar year containing the fifth anniversary of the participant's death.

4. If the participant dies before his or her entire interest has been distributed and if the designated beneficiary is not the participant's surviving spouse, no additional contributions may be accepted in the account.

5. The minimum amount that must be distributed each year, beginning with the year containing the participant's required beginning date, is known as the "required minimum distribution" and is determined as follows.

(a) The required minimum distribution under paragraph 2(b) for any year, beginning with the year the participant reaches age 70½, is the participant's account value at the close of business on December 31 of the preceding year divided by the distribution period in the uniform



lifetime table in Regulations section 1.401(a)(9)-9. However, if the participant's designated beneficiary is his or her surviving spouse, the required minimum distribution for a year shall not be more than the participant's account value at the close of business on December 31 of the preceding year divided by the number in the joint and last survivor table in Regulations section 1.401(a)(9)-9. The required minimum distribution for a year under this paragraph (a) is determined using the participant's (or, if applicable, the participant and spouse's) attained age (or ages) in the year.

(b) The required minimum distribution under paragraphs 3(a) and 3(b)(i) for a year, beginning with the year following the year of the participant's death (or the year the participant would have reached age 70½, if applicable under paragraph 3(b)(i)) is the account value at the close of business on December 31 of the preceding year divided by the life expectancy (in the single life table in Regulations section 1.401(a)(9)-9) of the individual specified in such paragraphs 3(a) and 3(b)(i).

(c) The required minimum distribution for the year the participant reaches age 70½ can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.

6. The owner of two or more IRAs (other than Roth IRAs) may satisfy the minimum distribution requirements described above by taking from one IRA the amount required to satisfy the requirement for another in accordance with the regulations under section 408(a)(6).

### Article V

1. The participant agrees to provide the trustee with all information necessary to prepare any reports required by sections 408(i) and 408(l)(2) and Regulations sections 1.408-5 and 1.408-6.

2. The trustee agrees to submit to the Internal Revenue Service (IRS) and participant the reports prescribed by the IRS.

3. The trustee also agrees to provide the participant's employer the summary description described in section 408(l)(2) unless this SIMPLE IRA is a transfer SIMPLE IRA.

### Article VI

Notwithstanding any other articles which may be added or incorporated, the provisions of Articles I through III and this sentence will be controlling. Any additional articles inconsistent with sections 408(a) and 408(p) and the related regulations will be invalid.

### Article VII

This agreement will be amended as necessary to comply with the provisions of the Code and the related regulations. Other amendments may be made with the consent of the persons whose signatures appear below.

### Article VIII

#### Amendment and Termination 8.1

A. Each participant who adopts this trust delegates to the trustee the power to amend this trust from time to time in any respect without obtaining the consent or approval of the participant (or beneficiary). Any amendments will be provided to the participant.

Each participant shall be deemed to have consented to any and all such amendments. In addition, the trustee may amend the fee schedule from time to time with advance notice to the participant (or beneficiary).

The participant shall be permitted to revoke this trust in writing within a period not to exceed seven (7) days after the date that the participant adopted this trust. In the event of such revocation, the trustee will return the entire account plus any trustee compensation, taxes and expenses as soon as practical.

B. Neither the participant nor the trustee shall have the right to amend or terminate this trust in such a manner as would cause or permit all or part of the entire interest of the participant to be diverted for purposes other than their exclusive benefit or that of their beneficiary. No participant shall have the right to sell, assign, discount, or pledge as collateral for a loan any asset of this trust.

C. A participant shall have the right to terminate this trust, at any time and from time to time, by delivering to the trustee a signed copy of a statement of termination.

D. Either the trustee or the participant may terminate this trust upon thirty (30) days written notice to the other. Upon removal of the trustee by the participant, the participant shall appoint a successor trustee or custodian that shall have the same powers and duties as are conferred upon the trustee hereunder and in default thereof, such successor trustee or custodian may be appointed by a court of competent jurisdiction.

In the event of resignation of the trustee, if the participant fails to appoint a successor trustee or custodian and complete the transfer of assets within 30 days of the date the trustee mails such termination notice to the last address on file for the participant or the participant mails such notice to the trustee, the trustee may in its discretion, transfer the assets to a successor trustee or custodian of its choosing or to a successor trustee or custodian as may be appointed by a court of competent jurisdiction, or liquidate and/or distribute the assets, less any amounts withheld for trustee compensation, taxes, and expenses, to the participant. The trustee will not be responsible for any penalties, fines, taxes, or tax consequences that may result from such distribution or transfer.

E. Upon the delivery by the resigning or removed trustee to its successor trustee or custodian of all property of the trust, less such reasonable amount as it shall deem necessary to provide for its compensation and any taxes and expenses or advances chargeable or payable out of the trust, the successor trustee or custodian shall thereupon have the same powers and duties as are conferred upon the trustee.

F. No successor trustee or custodian shall have any obligation or liability with respect to the acts or omissions of its predecessors.

The actual appointment and qualification of a successor trustee or custodian to whom the trust assets may be transferred are conditions which must be fulfilled before the resignation or removal of the trustee shall become effective. The transfer of the trust assets shall be made coincidentally with an accounting by the resigned or removed trustee and such resigned or removed trustee shall endorse, transfer, convey and deliver to the successor trustee or custodian all of the funds, securities or other property then held by it under the trust, together with such records as may be reasonably required in order that the successor trustee or custodian may properly administer the trust.

G. This agreement and the trust created hereby will be terminated in the case of complete distribution of the trust. This agreement and the trust created hereby will also terminate at such time, as determined by the trustee based on available information, that the investments in the trust have no value. The trustee will have no liability for making a no value determination.

- H. If the trustee receives any claim to assets held in the trust which is adverse to the participant's interest or the interest of his or her beneficiary, and the trustee, in its absolute discretion, decides the claim is, or may be, meritorious, the trustee may withhold distribution until the claim is resolved to its trustee shall be entitled to reimbursement of all costs, fees and expenses, including reasonable attorney's fees, directly from the trust assets, without the approval or direction of the participant. If necessary, the trustee may liquidate trust assets in order to be reimbursed. As an alternative, the trustee may deposit all or any portion of the assets in the trust into the court. Deposit with the court shall relieve the trustee of any further obligation with respect to the assets deposited. The trustee has the right to be reimbursed from the funds deposited with the court for legal fees and costs incurred. Such reimbursement may be made directly from the trust assets without approval or direction of the participant. If necessary, the trustee may liquidate trust assets in order to be reimbursed as stated above.

#### Miscellaneous 8.2

- A. Notwithstanding anything to the contrary contained in this agreement or in any amendment thereto, no part of the trust other than such part as is required to pay the trustee's compensation, taxes, and administration expenses (including the reimbursement referenced in Section 8.1 (H)), shall be used for, or diverted to, purposes other than for the exclusive benefit of the participant, their beneficiaries, or their estates. The trust account is established for the exclusive benefit of the participant or his or her beneficiary.
- B. The trustee shall not be liable for any act or omission made in connection with the trust except for its intentional misconduct or negligence. Any required notice regarding the trust will be considered effective when the trustee mails it to the last address of the intended recipient which is contained in the trustee's records. Any notice to be given to the trustee will be considered effective when the trustee actually receives it. The participant and/or beneficiaries must notify the trustee of any change of address in a manner acceptable to the trustee.
- C. To the extent the trustee is engaged in any form of litigation, arbitration, or dispute resolution concerning the trust assets or the interest of the trust, the trustee shall be entitled to recover all costs, fees and expenses, including reasonable attorney's fees, directly from the trust assets.
- D. The terms and conditions of this agreement shall be applicable without regard to the community property laws of any state.
- E. The captions of Articles and Sections in this agreement are included for convenience only and shall not be considered a part of, or an aid to, the construction of this trust.
- F. The participant agrees that all lawsuits filed by the participant and/or beneficiaries and the trustee and any of its officers, directors, agents or employees (present or former) concerning or arising from (i) any account maintained with the trustee by the participant; (ii) any transaction involving the participant's account, whether or not such transaction occurred in such account or accounts; or (iii) the construction, performance or breach of this agreement, whether such controversy arose prior, on or subsequent to the date hereof, shall be instituted in the county courts of Lorain County, Ohio where trustee maintains its principal office. Participant agrees to submit to such jurisdiction both in connection with any such suit participant may file and in connection with any suit trustee may file.
- G. The determination that any provision of this agreement is not enforceable in accordance with its terms in a particular jurisdiction shall not affect the validity or enforceability of the remaining provisions of this agreement generally or in any other jurisdiction or as to any other parties, but rather such unenforceable provisions shall be stricken or modified in accordance with such determination only as to such parties and this agreement, as so modified, shall continue to bind the specific parties involved therein and otherwise all other parties in unmodified form.
- H. Trustee is a South Dakota trust company and contributions to this trust shall be deemed to take place in the State of South Dakota.
- I. This agreement is executed by signing the Application and the Form 5305-S (in a manner acceptable to the trustee), which may be executed in any number of counterparts, each one of which shall be deemed to be the original although the others shall not be produced.
- J. This agreement is made pursuant to and shall be construed in accordance with the laws of the State of South Dakota.

#### Designation of Beneficiary 8.3

- A. The participant shall designate a beneficiary on the Application. The participant may change the beneficiary designation by filing a written notice with the trustee in such manner as the trustee deems acceptable. Changes to the beneficiary designation must be received by the trustee during the participant's lifetime and are considered valid when they have been received and accepted by the trustee.
- B. The beneficiary will be entitled to the participant's interest in the event of the participant's death before the complete distribution of the entire interest. If the participant named multiple beneficiaries, the beneficiaries will receive the designated portion of the participant's interest.
- C. Unless the participant designates in writing how distributions are to be paid, the interest in the account will be paid equally to all primary beneficiaries, or contingent beneficiaries if all primary beneficiaries have died before the participant.
- D. If the designation of a beneficiary has not been made by the participant at the time of the participant's death, the beneficiary shall be the spouse of the participant (as determined under Federal tax law), or if there is no spouse living at the time of the participant's death, the beneficiary will be the estate of the participant.
- E. If the beneficiary designated to receive payments is a minor child or declared incapacitated or incompetent by the court, the trustee may make such payment to a court appointed guardian or legally appointed representative. The receipt of such payment by such individual shall be a full and complete discharge to the trustee for any sums so paid.
- F. If the trustee is unable to make a payment to a beneficiary within six months after any such payment is due because the trustee cannot ascertain the whereabouts or the identity of the beneficiary by mailing to the last known address shown on the trustee's records and such beneficiary has not written claim for such payment before the expiration of said six-month period, then the trustee may deposit the beneficiary's funds in a savings account or money market mutual fund established in the name of the beneficiary.
- G. Upon the death of the participant, the beneficiary may designate his or her own beneficiary to receive any remaining assets in the account in the event the beneficiary dies before a total distribution of the interest in the account occurs. Payments to the beneficiary's beneficiary must continue at least as rapidly as they would have been to the original beneficiary.

- H. A designated beneficiary may disclaim his or her interest in the account provided the disclaimer is in a form acceptable to the trustee and complies with Code Section 2518(b).
- I. A beneficiary is responsible for paying any fees, expenses, or taxes of the trust in the same manner and time frame as if they were the original participant.
- J. If the beneficiary of the account is the spouse (designated either by name or relationship or both), the dissolution, annulment or other legal termination of the participant's marriage will automatically revoke such designation. A participant may designate a former spouse as a beneficiary on a form executed following the date the participant's marriage legally terminated, provided the beneficiary designation otherwise satisfies the requirements of this trust.
- K. In the event of a dispute between two or more beneficiaries, the trustee retains the right to apply to a court of competent jurisdiction for judicial settlement or to arbitration pursuant to Section 8.1(F). All fees and expenses incurred by the trustee in connection with such action will be deducted from the assets of the trust after reasonable notice is given to the beneficiaries. Such fees and expenses do not have to be approved by the court or an arbitrator.

Participant's signature ..... Date .....

(If an individual other than the participant signs this form for the participant, indicate the individual's relationship to the participant.)

Trustee's signature ..... Date .....

Witness' signature ..... Date .....

(Use only if signature of the participant or the trustee is required to be witnessed.)

## General Instructions

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

### Purpose of Form

Form 5305-S is a model trust account agreement that meets the requirements of sections 408(a) and 408(p). However, only Articles I through VII have been reviewed by the IRS. A SIMPLE individual retirement account (SIMPLE IRA) is established after the form is fully executed by both the individual (participant) and the trustee. This account must be created in the United States for the exclusive benefit of the participant and his or her beneficiaries.

**Do not** file Form 5305-S with the IRS. Instead, keep it with your records.

For more information on SIMPLE IRAs, including the required disclosures the trustee must give the participant, see **Pub. 590-A**,

Contributions to Individual Retirement Arrangements (IRAs); **Pub. 590-B**, Distributions from Individual Retirement Arrangements (IRAs); and **Pub. 560**, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans).

### Definitions

**Participant.** The participant is the person who establishes the trust account.

**Trustee.** The trustee must be a bank or savings and loan association, as defined in section 408(n), or any person who has the approval of the IRS to act as trustee.

### Transfer SIMPLE IRA

This SIMPLE IRA is a "transfer SIMPLE IRA" if it is not the original recipient of contributions under any SIMPLE IRA plan. The summary description requirements of section 408(l)(2) do not apply to transfer SIMPLE IRAs.

## Specific Instructions

**Article IV.** Distributions made under this article may be made in a single sum, periodic payment, or a combination of both. The distribution option should be reviewed in the year the participant reaches age 70<sup>1/2</sup> to ensure that the requirements of section 408(a)(6) have been met.

**Article VIII.** Article VIII and any that follow it may incorporate additional provisions that are agreed to by the participant and trustee to complete the agreement. They may include, for example, definitions, investment powers, voting rights, exculpatory provisions, amendment and termination, removal of the trustee, trustee's fees, state law requirements, beginning date of distributions, accepting only cash, treatment of excess contributions, prohibited transactions with the participant, etc. Attach additional pages if necessary.

This Disclosure Statement provides you, and your beneficiaries after your death, a summary of the basic rules and regulations governing your Equity Trust Company Self-Directed SIMPLE Individual Retirement Account (SIMPLE IRA). It also contains important federal tax and legal information. However, the applicable Self-Directed Individual Retirement Trust Agreement (Trust Agreement) for your SIMPLE IRA will govern. If there is a discrepancy between the Trust Agreement and Disclosure Statement, the Trust Agreement will control.

Equity Trust Company cannot give tax or financial advice. We strongly encourage you to consult with your tax or legal advisor before you establish a SIMPLE IRA.

When used in this document, the words you and your, refer to the person for whom the SIMPLE IRA is established. We, us, and our, refer to Equity Trust Company as trustee of your SIMPLE IRA.

### **Your Right to Revoke Your IRA**

You may revoke your SIMPLE IRA within seven days of the date you establish the IRA. If you revoke your SIMPLE IRA, we will return all of your funds, without adjustment for items such as sales commissions, administrative expenses (including the acceptance fee), or fluctuation in market value.

Your notice of revocation must be put in writing, signed by you, and delivered to us.

The notice may be mailed to us at the following address:

Equity Trust Company  
Attn: DTS  
P. O. Box 45274  
Westlake, OH 44145

You may also send the notice by courier at the following address:

Equity Trust Company  
Attn: DTS  
1 Equity Way  
Westlake, OH 44145

If you mail the notice, we will use the date of the postmark (or the date of certification or registration for certified or registered mail) as the date of the notice. You may call us at (800) 209-9010 if you have questions.

### **A. Simple IRA Contribution**

SIMPLE IRAs hold employer tax-deductible contributions and employee pre-tax contributions to a Savings Incentive Match Plan for Employees, a SIMPLE IRA plan.

#### **1. Eligibility**

Only certain employers are eligible to establish a SIMPLE IRA Plan.

##### **a. Eligible Employers**

SIMPLE IRA plans are only for small employers – an employer with 100 or fewer employees in the previous calendar years who were paid \$5,000 or more in total pay from the employer. (There are certain additional rules that may apply.) The employer determines if the company is eligible to establish a SIMPLE IRA plan. An employer may have a SIMPLE IRA plan only if it has no other retirement plan at any time when the SIMPLE IRA plan is in operation. "Retirement plans" for this purpose include 401(k), profit sharing, pension, and other kinds of retirement plans that receive tax benefits.

##### **b. Eligible Employees**

Generally, all of the employer's employees must participate in the SIMPLE IRA plan. However, the employer may decide to exclude:

- an employee who did not receive at least \$5,000 in pay from the employer in at least two prior calendar years (not necessarily consecutive).
- an employee who is not reasonably expected to receive at least \$5,000 in pay from the employer for the current calendar year.
- union-represented employees, provided that there was good faith bargaining over the issue of retirement benefits.
- employees who are nonresident aliens and receive no U.S. source income.

The summary description of your employer's SIMPLE IRA plan will indicate whether these groups of employees will be included or excluded from its SIMPLE IRA plan.

**2. Employee Contributions**

If you are an eligible employee, you may elect to have a percentage of your pre-tax pay contributed by your employer to your SIMPLE IRA, up to a maximum annual salary deferral of \$13,500 for 2021. After 2021, the maximum amount may be adjusted for cost-of-living increases. If you will be age 50 or over by the end of the year, you may elect to have your pre-tax pay reduced by an additional amount of \$3,000 for 2021. After 2021, the additional amount may be adjusted for cost-of-living increases.

You elect the desired percentage of pay to contribute on a salary reduction agreement available from your employer. Salary reductions may be made only from pay you earn after signing the salary reduction agreement.

**3. Employer Contributions**

For each year that it operates a SIMPLE IRA plan, your employer must make contributions on behalf of eligible participants. Your employer may choose either matching or nonelective contributions for a particular year. Your employer must notify you of the contribution approach it has elected for a particular calendar year.

**a. Matching Contributions**

If your employer makes matching contributions, you must make salary reduction contributions from your own pay in order to receive matching contributions from your employer. Your employer will match your contributions, dollar for dollar, up to a cap of 1% to 3% of your pay for the calendar year. Your employer decides the cap (subject to certain IRS requirements).

**b. Non-Elective Contribution**

If your employer decides to make non-elective contributions, it must contribute 2% of your pay for the calendar year provided that you receive \$5,000 or more in compensation for a two year period, whether or not you make salary deferral contributions.

For this purpose, your pay is subject to an IRS limit. The limit is \$290,000 for 2021. This limit is indexed for future cost-of-living changes.

**B. Payments from your SIMPLE IRA**

You have a non-forfeitable right to your SIMPLE IRA at all times. You may request payment from your SIMPLE IRA at any time. Your SIMPLE IRA will be subject to federal income taxation as ordinary income at the time of distribution, unless you complete a rollover, as described in Section D. Lump sum payments from SIMPLE IRAs are not eligible for special income tax rules, such as 10 year averaging or long-term capital gain treatment

**1. Taxation of Benefits****a. Transfer to a Health Savings Account**

Qualified HSA funding distributions cannot be made from your SIMPLE IRAs.

**b. Federal Withholding**

Depending on the payment form you elected, generally all taxable distributions from your SIMPLE IRA will be subject to federal income tax withholding. For non-periodic payments (lump sum amounts), the withholding rate is generally 10%. For periodic payments, the normal wage withholding rates generally apply. You may be able to elect out of withholding, as described on the applicable distribution form.

**2. Payments Prior to Age 59½**

If you request payment prior to age 59 ½, you must include the reason for the distribution so that proper tax reporting can be made. In addition, an additional 10% early distribution tax penalty (25% from the SIMPLE IRA in the first two years of plan participation) may result, unless an exception applies. See Section L.

**3. Payments After Age 72 Required Minimum Distributions (RMD)**

Federal tax rules require that benefit payments from your SIMPLE IRA begin no later than the April 1 following the calendar year in which you reach age 72 your required beginning date. If you do not receive the entire balance of your SIMPLE IRA by the April 1, deadline you must have started receiving payments each year that satisfy the federal required minimum distribution rules by that date. The required minimum distribution for any year after the year in which you turn 72 must be made by December 31 of that later year.

**a. Calculating Your RMD**

The amount that must be distributed each year, the RMD amount, beginning with the calendar year for which distributions are required and continuing through the year of death, is obtained by dividing the SIMPLE IRA account balance on December 31 of the previous year by the distribution period using the Uniform Lifetime Table in Q&A-2 of Section 1.401(a)(9)-9 of the Treasury Regulations, using your age on your birthday in the applicable distribution year.

However, if your sole designated beneficiary is your surviving spouse and such spouse is more than 10 years younger than you, the distribution period is determined under the Joint and Last Survivor Table in Q&A-3 of Section 1.401(a)(9)-9 using the ages as of your and your spouse's birthdays in the applicable distribution year.

**b. Penalty For Failure to Take RMD**

If in any taxable year after you turn age 72 you fail to withdraw the required minimum distribution from the SIMPLE IRA, a 50% nondeductible penalty may be imposed by the IRS on the difference between the amount that should have been distributed and the amount actually distributed.

**c. General Rules**

If you have multiple SIMPLE or traditional IRAs, you must determine the RMD amount for each IRA, however the minimum amounts can be totaled and the total taken from any one or more of the SIMPLE or traditional IRAs (but not from a Roth IRA). Any distributions in excess of the required minimum payment for one year cannot be used as a credit when figuring a subsequent year's RMD. An annual RMD must be satisfied before you can roll over any portion of your IRA account.

**d. Default Distribution Methodology**

If you do not commence distributions by your required beginning date, we may do any of the following:

- assume you are taking your RMD from another IRA and make no payment until you make a request,
- pay your entire SIMPLE IRA to you in a single sum payment, or
- pay the RMD amount based on the value of your SIMPLE IRA.

We will not be liable for any penalties or taxes incurred due to your failure to take your RMD.

**e. RMDs After Your Death**

An RMD is required for the year of your death, under the rules described above. RMDs required by beneficiaries in future years are described in Section I.

**C. Transfers of SIMPLE IRA Assets****1. Trustee to Trustee Transfer**

You may transfer assets in your SIMPLE IRA from one trustee directly to another. The transfer is not a rollover and is therefore not subject to the one-year waiting period that applies to rollovers as described below. There is no dollar limit on the amount you transfer or how often you can make a transfer.

The transfer is tax-free if it is between SIMPLE IRAs (or after two years of participation, a SIMPLE IRA and a traditional IRA). However, a transfer of a SIMPLE IRA to a Roth IRA is a conversion (as discussed in Section E) and subject to tax.

**2. Limitation on Transfers of SIMPLE IRAs**

For the first two years that you participate in your employer's SIMPLE plan, you may only transfer your SIMPLE IRA to another SIMPLE IRA. After you have completed two years of participation, you may transfer your SIMPLE IRA to a traditional IRA tax-free, or, subject to tax, to a Roth IRA.

**3. Transfers Incident to Divorce**

If you are the spouse or former spouse of a SIMPLE IRA Account Holder and you receive a transfer of an interest in that SIMPLE IRA under a divorce decree (or related document), the transfer is not a distribution and is tax-free. Upon the transfer, the SIMPLE IRA will be treated as your IRA and you will be subject to taxation upon distribution.

**D. Rollover of IRA Assets**

Distributions from your SIMPLE IRA or other retirement programs typically are subject to taxation, as described in Section B above. You may be able to defer taxes on the distributions by completing a "rollover". A rollover is a tax-free movement from one retirement program to another. The rollover rules are complex and may change. You should consult with your tax advisor about your situation.

You may roll assets into or out of your SIMPLE IRA subject to the following rules:

**1. Timing**

Generally, you must make a rollover contribution within 60 days of the date you receive a distribution from an IRA. If you do not make the rollover within this 60-day window, the distribution will be subject to income tax, as described in this disclosure statement. The IRS may waive the 60-day requirement in the event of a casualty, disaster or another event beyond your reasonable control, as provided in IRS Revenue Procedure 2003-16.

**2. No Tax Deduction**

Generally, you do not include the amount rolled over in your income and you cannot take a tax deduction for the year the rollover was completed. However, a conversion from a SIMPLE IRA to a Roth IRA is subject to tax.



**3. Rollover From a SIMPLE IRA to another IRA****a. Types of IRAs**

You may complete a tax-free rollover between SIMPLE IRAs. In addition, after two years of participation in your employer's SIMPLE plan, you may roll over your SIMPLE IRA to a traditional IRA.

**b. Eligible Rollover Distribution**

Most taxable distributions from your SIMPLE IRA are eligible for rollover. However, a distribution will not qualify for rollover if it is an RMD payment, a corrective distribution, or a payment in a series of substantially equal annual or more frequent distributions made over your life or life expectancy, over the joint life or life expectancy of you and your beneficiary, or over a period of 10 years or more.

**c. Waiting Period Between Rollovers**

You may take a distribution of assets from a SIMPLE IRA and make a rollover contribution of all or part of the assets to another SIMPLE IRA. You are limited to one such rollover in any twelve consecutive month period. The one-year period begins on the date you receive the IRA distribution, not on the date you rolled it over into another IRA. However, this rule does not apply to conversions to a Roth IRA or a recharacterization. The IRS rules regarding this one rollover limitation are subject to change. Consult with your tax advisor about your situation.

**d. Partial Rollovers**

If you withdraw assets from your SIMPLE IRA, you can roll over part of the withdrawal tax free and keep the remainder of the assets. The amount you keep may be subject to taxation and, if the assets are taken as an early distribution, an additional 10% (or 25%, for certain SIMPLE IRA distributions) penalty tax, unless an exception applies.

**e. Rollover of Securities**

For rollovers between IRAs, you must roll over to the new IRA the same securities or other property you received from your old IRA. For example, if you received stock from your old IRA, you must use the same stock for the contribution to your new IRA. The IRA custodian may, in its sole discretion, refuse to accept particular securities or property if sound administration or custody of the investment is not feasible, the investment presents burdensome valuation problems, or is otherwise prohibited by law.

**4. Rollover from a SIMPLE IRA to an Employer Plan**

Subject to the employer plan's rules, you can rollover an eligible rollover distribution from a SIMPLE IRA into a qualified plan, annuity plan, 403(b) or certain governmental 457 plan. However, you must have satisfied the two years of participant rule in the SIMPLE IRA before you complete this rollover.

The distribution must be an eligible rollover distribution (as described above). In addition, the waiting period between rollovers also applies.

**5. Rollover From an Employer Plan to an IRA**

A distribution from an employer plan (such as a qualified plan, annuity plan, 403(b) plan or certain governmental 457 plans) CANNOT be rolled over into a SIMPLE IRA.

**E. Conversions****1. Conversion from a SIMPLE IRA to a Roth IRA**

Any or all of a SIMPLE IRA may be converted to a Roth IRA.

However, a SIMPLE IRA cannot be converted to a Roth IRA until you have two years of participation in your employer's SIMPLE plan.

You may make the conversion by instructing the custodian or trustee to change the designation of your SIMPLE IRA to a Roth IRA, if the Roth IRA is offered by the same custodian or trustee. Otherwise, you may convert by making a rollover or transfer from a SIMPLE IRA to a Roth IRA. The amount of the conversion, minus any return of basis, is taxable as ordinary income in the year the conversion occurs. (If you make the conversion by rollover, the tax is imposed for the year the rollover distribution occurs.) The 10% penalty tax on early withdrawals does not apply to such conversions.

**Caution:** Any withdrawal of conversion amounts from your Roth IRA within the 5-year period beginning on the first day of the taxable year in which the contribution is made would be subject to the 10% penalty tax on early distributions for the entire amount of the conversion and earnings attributable to the withdrawal, if no exception applies.

**2. Prior Rules**

Prior to 2010, there were income limits and tax filing limitations on Roth IRA conversions. Individuals are now allowed to convert to a Roth IRA regardless of a participant's gross income or filing status. The law eliminated the requirement that married taxpayers must file joint returns and removed the \$100,000 MAGI limit on the conversion to a Roth IRA.

**3. Reconversion**

You cannot convert and reconvert an amount during the same tax year. If you reconvert during either of these periods it will be a failed conversion. A failed conversion is includible in income and is subject to penalties.

**F. Recharacterizations**

Prior to 2018, certain Roth IRA conversions were permitted to be recharacterized. However, a Roth IRA conversion made after January 1, 2018 cannot be recharacterized. The amount you convert will be taxable in the year the distribution is made and the 10 percent penalty tax does not apply to the amount converted.

**G. Designation of Beneficiary**

You may designate any person or entity to be your beneficiary to receive your SIMPLE IRA upon your death, subject to the following rules:

**1. Designation of Beneficiary**

You may designate a beneficiary on the IRA application.

**2. Modification of Beneficiary Designation**

You may modify the beneficiary designation by properly completing a beneficiary form. Changes to the beneficiary designation must be received by us (or our designated agent) during your lifetime.

**3. No Beneficiary Designation**

If you have not designated a beneficiary prior to your death or your designation is not effective for any reason, the beneficiary will be your surviving spouse, or if none, the beneficiary will be your estate.

**4. Beneficiary May Designate Own Beneficiary**

Upon your death, your designated beneficiary may designate his or her own beneficiary to receive any remaining assets in the SIMPLE IRA.

**5. Effect of Divorce**

If your designated beneficiary is your spouse (designated either by name or relationship or both), your divorce or annulment or other legal termination of your marriage will automatically revoke your prior beneficiary designation. You may designate your former spouse as a beneficiary of your SIMPLE IRA by completing a new beneficiary designation after the date your marriage legally terminated. Changes to the beneficiary designation must be received by us during your lifetime.

**H. Inherited IRA**

Your beneficiary will inherit your SIMPLE IRA at your death.

**1. Tax Effect**

Your beneficiary must include any taxable distribution in gross income. Certain distributions are required, as described in Section I below.

**2. IRA Inherited From Spouse**

If you inherit a SIMPLE IRA from your spouse you may:

- a. Treat the IRA as your own by designating yourself as the Account Holder (you will not be treated as a beneficiary for purposes of the IRA rules);
- b. Treat it as your own by rolling it over into your traditional IRA, or to the extent it is taxable, into a qualified employer plan, qualified employee annuity plan, tax-sheltered annuity plan, or eligible deferred compensation plan; or
- c. Treat yourself as the beneficiary rather than treating the IRA as your own.

**3. IRA Inherited From Non-Spouse**

If you inherit a SIMPLE IRA from someone other than your spouse, you may not treat the IRA as your own. You cannot rollover any amounts in or out of the IRA, or make contributions to the IRA. However, you can make a trustee-to-trustee transfer as long as the IRA into which the amounts are being moved is set up and maintained in the name of the deceased IRA Account Holder for the benefit of you as the beneficiary.

**4. Separate Accounts**

If you name multiple individual beneficiaries, they may each establish separate accounts for their portion of the IRA.

**5. Minor or Disabled Beneficiaries**

If the beneficiary designated to receive payments is a minor child or declared incapacitated or incompetent by the court, we may follow the direction of a court appointed guardian or legally appointed representative, including payment and investment direction. We will not be liable for any loss which may result from any investment, liquidation, or distribution made by us in good faith under this paragraph.

**6. Investment Control**

See Section N. Following your death, your beneficiary will have investment responsibility.



**I. Required Minimum Distributions (RMD) for Beneficiaries**

The beneficiary of your SIMPLE IRA is required to take certain distributions, to avoid additional tax penalties. The rules that apply depend on when you die – before or after your required beginning date.

**1. Death Before Your Required Beginning Date**

If you die before your required beginning date, the April 1 of the year following the year you reach age 72, your beneficiary must direct that payment of his/her benefits be made or started no later than December 31 of the year following the year of your death with annual distributions of at least the required minimum distribution described below (the “life expectancy rule”). If, however, there is no designated beneficiary (as defined below) or your designated beneficiary is not an individual, the entire balance of the IRA must be paid by December 31 of the year in which occurs the fifth anniversary of your death (the “5-year rule”).

*Special Rule 2009.* Your beneficiary was not required under federal law to take a required minimum distribution for 2009, due to relief enacted by Congress in late 2008. In addition, if in 2009 a beneficiary was satisfying the required minimum distribution rules by taking full distribution of his or her interest by the end of the calendar year containing the fifth anniversary of the Participant’s death, the beneficiary may now take the full distribution over a six year period.

Special rules apply if your surviving spouse is your sole designated beneficiary. In this case, your surviving spouse may wait until the December 31 of the year you would have reached age 70½ to start receiving SIMPLE IRA RMD payments. If your surviving spouse is your sole beneficiary and dies after you but before his or her payments are required to begin, subsequent payments to the surviving spouse’s beneficiaries will be made as if the surviving spouse had been you.

Under the life expectancy rule, the yearly required minimum distribution for each designated beneficiary is calculated by dividing the IRA account balance as of the close of business on December 31 of the previous year by the applicable distribution period. The applicable distribution period depends on the beneficiary’s identity.

If your surviving spouse is the sole designated beneficiary of your IRA, the distribution period is the life expectancy listed in “Table 1 (Single Life Expectancy)” for the spouse’s age as of the spouse’s birthday in the year for which the distribution is being made. Table 1 can be located in IRS Publication 590. (Special rules apply to the minimum distributions after the death of your surviving spouse.)

If the designated beneficiary is an individual other than your spouse, the distribution period for the year following the year of your death is the life expectancy listed in “Table 1 (Single Life Expectancy)” for the beneficiary’s age as of his or her birthday in that year, reduced by one for each subsequent year.

**2. Death After Your Required Beginning Date**

If your death occurs on or after your required beginning date, the April 1 of the year following the year you reach 72, the beneficiary of your IRA must receive payment for each year following the year of your death.

*Special Rule for 2009.* Your beneficiary was not required under federal law to take a required minimum distribution for 2009, due to relief enacted by Congress in late 2008.

The yearly required minimum distribution for each designated beneficiary is calculated by dividing the IRA account balance as of the close of business on December 31 of the previous year by the applicable distribution period. The applicable distribution period depends on the beneficiary’s identity.

If your surviving spouse is the sole designated beneficiary of your IRA, the distribution period is the life expectancy listed in “Table 1 (Single Life Expectancy)” for the spouse’s age as of the spouse’s birthday in the year for which the distribution is being made. Table 1 can be located in IRS Publication 590. (Special rules apply to the minimum distributions after the death of your surviving spouse.)

If the designated beneficiary is an individual other than your spouse, the distribution period of the year following the year of your death is the life expectancy listed in “Table 1 (Single Life Expectancy)” for the beneficiary’s age as of his or her birthday in that year, reduced by one for each subsequent year.

However, if your remaining life expectancy for a given year is greater than the life expectancy of your designated beneficiary for that year (as calculated above), the required minimum payment to your beneficiary is determined by using your remaining life expectancy. Your remaining life expectancy is calculated by using your age as of your birthday in the year of your death and referring to “Table 1 (Single Life Expectancy)”. This amount is reduced by one for each subsequent year.

If your beneficiary is not an individual (for example, if the beneficiary is your estate or a charity) or if you have not designated beneficiary, required minimum payments are determined using your life expectancy, as described above.

**3. Designated Beneficiary**

Under the RMD rules, your “designated beneficiary” is determined based on the remaining beneficiaries of your IRA as of the September 30th of the year following the year of your death. Any beneficiary who was a beneficiary on your date of death, but is not a beneficiary as of the September 30th of the year following your death (for example due to receiving payout of the complete benefit due to such beneficiary), is not taken into account for RMD purposes.

**4. Penalty For Failure to Take RMD**

If in any taxable year after your death, your designated beneficiary fails to withdraw the required minimum distribution from the IRA, a 50% nondeductible penalty may be imposed by the IRS on the difference between the amount that should have been distributed and the amount actually distributed.

**J. Federal Estate and Gift Tax**

You should consult with your tax or legal advisor regarding federal estate and gift tax matters.

**1. Federal Estate Tax**

Your SIMPLE IRA is fully includible in your gross estate and subject to federal estate taxes, just as any other asset. However, for a death in 2020, there is no federal estate tax if your total estate and prior taxable gifts do not exceed \$11,580,000. For years after 2020, this amount is subject to adjustment.

**2. Gift Tax**

The gift tax exclusion for distributions is applicable to a SIMPLE IRA. In addition, the designation of a beneficiary of a SIMPLE IRA is not considered a gift tax transfer of property for federal gift tax purposes.

**K. Prohibited Transactions**

A prohibited transaction is any improper use of your SIMPLE IRA and includes direct or indirect transactions between you, your beneficiaries or your family members and your SIMPLE IRA.

**1. Examples**

Prohibited transactions include borrowing money from your SIMPLE IRA; selling property to your SIMPLE IRA; buying property from your SIMPLE IRA; receiving unreasonable compensation for managing your SIMPLE IRA; and using your SIMPLE IRA as security for a loan.

**2. Effect on SIMPLE IRA**

If a prohibited transaction occurs in a year, the SIMPLE IRA will lose its tax-deferred status and you will be required to include the value of the account on the first day of the year in your income for the year the tax-deferred status was lost (other than any non-deductible contributions). If you pledge your SIMPLE IRA as security for a loan, the portion of your SIMPLE IRA that was pledged must be included in your income for the year it was pledged (other than non-deductible contributions). You may also be subject to other taxes including an additional 10% penalty tax on the taxable amount if you are under age 59 ½, unless an exception applies.

**L. Additional Taxes****1. Early Distributions**

Early distributions are amounts distributed from your SIMPLE IRA before you attain age 59 ½. A 10% additional tax will apply to certain distributions made before you attain age 59 ½, unless an exception applies. In addition, if you take a distribution from your SIMPLE IRA in the first two years after the date of the first contribution under your employer’s SIMPLE plan, the penalty is 25% instead of 10%.

Generally, you will not pay the additional tax for a distribution made:

- a. to pay unreimbursed expenses exceeding 7.5% of your adjusted gross income for your medical care (or that of your spouse or dependents).
- b. to pay medical insurance premiums after losing your job in certain situations.
- c. after your disability. You are considered disabled for purposes of the exception if you cannot do any substantial gainful activity because of your physical or mental condition, which is expected to be of long-continued or indefinite duration or lead to death.
- d. after your death.
- e. as part of a series of substantially equal periodic payments for your lifetime or the lifetimes of you and your beneficiary.
- f. to pay certain qualified first-time home buyer amounts (limited to \$10,000 in your lifetime).
- g. to pay for certain qualified higher education expenses for you, your spouse, and you or your spouse’s children and grandchildren.
- h. to the IRS due to a tax levy.

- i. under special disaster relief, such as qualified hurricane distributions.
- j. as qualified reservist distributions under Code Section 72(t)(2).

You should consult with your tax advisor to see if your distribution qualifies for one of these exemptions to the early distribution penalty tax, as many special rules apply.

## **2. Tax on Excess Contributions**

An excess contribution is one that exceeds the annual amount that is allowed to be contribute to your SIMPLE IRA. If the excess contributions for a year are not withdrawn by the date your return for the year is due, you are subject to a 6% tax. You must pay the 6% tax each year on excess amounts that remain in your SIMPLE IRA at the end of the year.

You may correct the excess contribution and avoid the 6% tax by withdrawing the amount of the excess and any earnings before the tax-filing deadline (including extensions) for the tax year the contribution was made. You also must include the withdrawn earnings in your gross income for the year in which you contributed. You are responsible for computing the earnings and providing the figure to us on your completed distribution form. You may also owe the IRS a 10% premature distribution penalty tax on the earnings, even if you removed them before the tax-filing deadline.

If you fail to meet the timely correction deadline, you must pay a penalty tax of 6% of the excess contribution for the year of the contribution. You will also have to pay the 6% penalty tax for each later year, if an excess is still in the SIMPLE IRA at the end of that year.

You should consult with your tax advisor about the tax consequences of excess contributions.

## **3. Reporting**

You must file a Form 5329 with Form 1040 if you owe the additional tax on early distributions or the tax on excess contributions.

## **M. Financial Disclosure**

### **1. Available Assets**

The amount of money that will be available at any period of time depends on:

- a. the amount of contributions;
- b. total years of participation;
- c. earnings, including interest, dividends, realized and unrealized gains, and losses; and
- d. expenses incurred for brokerage commissions and applicable trustee's fees.
- e. Due to the many kinds of investments that you may choose, neither a guaranteed return nor a projected amount can be furnished.

### **2. Fees**

We charge annual and other fees for your SIMPLE IRA. Please refer to the current fee schedule. If you fail to pay our compensation, taxes, and/or expenses within a reasonable time after demand for payment is made, we reserve the right to charge the expenses to the Trust and liquidate such assets of the Trust as needed to satisfy the demand. The custodian will collect all fees, expenses, and taxes as directed by us. Such collection of fees by the custodian may be made without your approval or direction. We reserve the right to revise the fee schedules and will provide sufficient advance written or electronic notice of any revision to you. Brokerage commissions are considered a separate cost and are in addition to the above fees charged by the Trustee. Questions about brokerage commissions should be discussed with your broker or account executive before any orders are executed.

### **3. Annual Earnings**

To compute annual earnings: Compare the year-end market value to the prior year's market value; add any interest or dividends earned for your total account

## **N. Investments**

### **1. Investment Responsibility**

It is your responsibility to select and direct the investments of the Trust, either in person or through a broker, account executive or investment advisor, according to the procedures currently in effect. The investments you choose must conform to the Trust Agreement. Investments that do not generate confirmations must be accompanied by additional written instructions. It is your responsibility to make sure that the investments you select do not cause the SIMPLE IRA to participate in a prohibited transaction, such as by extending credit to the SIMPLE IRA or engaging in a "call" transaction.

### **2. Impermissible Investments**

No part of your SIMPLE IRA may be invested in the following:

- a. Collectibles within the meaning of Code Section 408(m) except for certain coins and bullion defined in Code Section 408(m)(3). Any impermissible investments in collectibles will be treated as a distribution.

- b. Life insurance contracts or commingled with other property, except in a common trust or common investment fund, described in Code Section 408(a)(5).

Other types of investments may also be prohibited or limited, as provided in the Trust Agreement.

### **3. Investment Information**

Although the brokerage firm may provide investment information to you, any information provided to you by the brokerage firm should not serve as a primary basis for your investment decisions. Any questions concerning the authority of your broker should be directed to the brokerage firm. The broker is not an employee of Equity Trust Company, and Equity Trust Company does not supervise or control the activity of the broker. It is our understanding that you will exercise independent judgment when you make your investment decisions.

### **4. Investment Performance**

No projection of the growth in value of your SIMPLE IRA can reasonably be made or guaranteed. The value of your SIMPLE IRA and the growth in value of the SIMPLE IRA is dependent solely on the performance of the investments chosen by you.

### **O. Duties Not Assigned**

We will not be responsible for voting proxies, receiving or mailing proxy materials, filing reports, returns or disclosures with any government agency unless we are required to do so under applicable law. Proxies and proxy material that are received by us will be destroyed.

### **P. Additional Information**

#### **1. State Laws**

The tax laws of certain states and local governments may be different from the federal tax laws for SIMPLE IRAs. State and local laws are not covered in this disclosure statement.

#### **2. Definition of Spouse**

The term "spouse" as used in this disclosure statement means the person to whom you are legally married, as determined under federal tax law.

#### **3. Legal Incapacity**

If you (or after your death, your beneficiary) is legally incapacitated, then we may require that any and all rights that the incapacitated individual could exercise under the Trust Agreement or at law be exercised by the incapacitated individual's representative. We may rely on the authority and direction of such representative for all action taken with respect to the SIMPLE IRA.

#### **4. IRS Information**

The IRS has a number of helpful Publications on IRAs, including IRS Publication 590, IRS Publication 560, IRS Publication 575 and IRS Publication 939. These publications are available at any IRS district office, on line at [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM.

#### **5. Legal and Tax Advice**

You are responsible for determining the legal and tax implications of (i) the type of IRA you have selected, (ii) your eligibility to contribute to, or receive contributions under, such IRA, (iii) the amount of contributions made to the IRA and whether such contributions are deductible, (iv) the tax treatment of any withdrawals from your IRA, and (v) any other tax treatment. We have not, and may not, provide you with legal or tax advice.

#### **6. Written Notices**

Any required notice regarding the trust will be considered effective when we (or our designated agent) mail it to the last address of the intended recipient which is contained in our records. We may provide notice to you in another format, including but not limited to electronic mail. Any electronic notice will be deemed effective when transmitted to the last e-mail or other electronic address in our records. You acknowledge that any notice provided electronically to you (or your beneficiary) will be deemed to have been provided in writing for purposes of this SIMPLE IRA and applicable federal and state laws. Any notice to be given to us must be provided in writing and will be considered effective when we actually receive it. You and/or your beneficiaries must notify us (or our designated agent) of any change of address in a manner acceptable to us.

#### **7. Future Amendments**

We may make any amendments to the Trust Agreement we deem advisable, including but not limited to, changes that are required to keep your SIMPLE IRA in compliance with applicable laws. You will be notified of any such amendments.

## Schedule of Standard Trustee Fees

<b>Acceptance Fee</b>	
Opening the Trust Account <i>The acceptance fee will be refunded if you revoke the Trust within seven (7) days from the date of adoption</i>	\$ 0
Service charge if acceptance fee does not accompany application	\$ 0
<b>Annual Fees</b>	
Annual Fee <i>Annual fees are charged on a calendar year basis and are not pro-rated. There is no percentage charge based on cumulative assets.</i>	\$ 30
Late Payment or directive to debit your account for Trustee fees (after 30 days)	\$ 0
<b>Fees for Disbursement from Trust</b>	
Partial distribution <i>Includes refund/re-allocation of excess - no cap</i>	\$ 0
<b>Other Charges</b>	
Termination of an existing Trust in addition to annual fees	\$ 20
Change in brokerage firm	\$ 15
Transaction requiring trustee processing - <i>No charge for buys and sells in the brokerage account</i>	\$ 15
Processing on terminated Trust - <i>Processing of checks or securities after the account has been closed more than 6 months</i>	\$ 25
Reissue check over 6 months old	\$ 30
Returned check	\$ 25
Research of transaction over 6 months old per hour (minimum ½ hour)	\$ 80
Affidavit of Loss	\$ 50 <i>plus investment firm fees</i>
Never funded account, after one year	\$ 50
Reinstatement of closed account	\$ 50
Preparing Form 990-T	\$ 150 <i>per service agreement</i>
Outgoing wire processing	\$ 25
<b>Special services not otherwise provided above</b>	As agreed

*In the event the fees become delinquent and it becomes necessary to collect the balance through the services of a collection agency, you will be held responsible for their fees.*

**Your Trustee fees depend on the Brokerage Firm who services your account. Please check with your Brokerage Firm for all fees applicable to your account. If you transfer your account to another Brokerage Firm, you will need to obtain another schedule of fees.**