IRS Code -- TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter D > PART I > Subpart A > § 408 Sections A, H & M

IRS Code 408

§ 408. Individual retirement accounts

(a) Individual retirement account

For purposes of this section, the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

> **(1)** Except in the case of a rollover contribution described in subsection (d)(3) in [1] section 402 (c), 403 (a)(4), 403 (b)(8), or 457 (e)(16), no contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year on behalf of any individual in excess of the amount in effect for such taxable year under section 219 (b)(1)(A).
>
> **(2)** The trustee is a bank (as defined in subsection (n)) or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.
>
> **(3)** No part of the trust funds will be invested in life insurance contracts.
>
> **(4)** The interest of an individual in the balance in his account is nonforfeitable.
>
> **(5)** The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.
>
> **(6)** Under regulations prescribed by the Secretary, rules similar to the rules of section 401 (a)(9) and the incidental death benefit requirements of section 401 (a) shall apply to the distribution of the entire interest of an individual for whose benefit the trust is maintained.

(h) Custodial accounts

For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in subsection (n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual retirement account described in subsection (a). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

(m) Investment in collectibles treated as distributions

(1) In general

The acquisition by an individual retirement account or by an individually-directed account under a plan described in section 401(a) of any collectible shall be treated (for purposes of this section and section 402) as a distribution from such account in an amount equal to the cost to such account of such collectible.

(2) Collectible defined

For purposes of this subsection, the term "collectible" means—

(A) any work of art,

(B) any rug or antique,

(C) any metal or gem,

(D) any stamp or coin,

(E) any alcoholic beverage, or

(F) any other tangible personal property specified by the Secretary for purposes of this subsection.

(3) Exception for certain coins and bullion

For purposes of this subsection, the term "collectible" shall not include—

(A) any coin which is—

(i) a gold coin described in paragraph (7), (8), (9), or (10) of section 5112 (a) of title 31, United States Code,

(ii) a silver coin described in section 5112 (e) of title 31, United States Code,

(iii) a platinum coin described in section 5112 (k) of title 31, United States Code, or

(iv) a coin issued under the laws of any State, or

(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness that a contract market (as described in section 7 of the Commodity Exchange Act, 7 U.S.C. 7) [2] requires for metals which may be delivered in satisfaction of a regulated futures contract,

if such bullion is in the physical possession of a trustee described under subsection **(a)** of this section.

(n) Bank

For purposes of subsection (a)(2), the term "bank" means—

(1) any bank (as defined in section 581),

(2) an insured credit union (within the meaning of paragraph (6) or (7) of section 101 of the Federal Credit Union Act), and

(3) a corporation which, under the laws of the State of its incorporation, is subject to supervision and examination by the Commissioner of Banking or other officer of such State in charge of the administration of the banking laws of such State.

[§ 581. Definition of bank -- For purposes of sections 582 and 584, the term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia) or of any State, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by State, Territorial, or Federal authority having supervision over banking institutions. Such term also means a domestic building and loan association.]