



August 20, 2025

By Electronic Submission

Mr. Andres Garcia
Internal Revenue Service
Room 6526
1111 Constitution Avenue NW
Washington, DC 20224

Re: OMB Control No. 1545–1502 - Comment Request for Form 5304–SIMPLE, Form 5305–SIMPLE, and Notice 98–4

Dear Mr. Andres Garcia:

The Securities Industry Financial Markets Association,ⁱ Investment Company Institute,ⁱⁱ and PenServ Plan Services, Inc.ⁱⁱⁱ appreciate this opportunity to submit this letter to the Internal Revenue Service in response to the information collection renewal request for Form 5304-SIMPLE, Form 5305-SIMPLE (together, “SIMPLE IRA Forms”), and Notice 98-4 (OMB Control No. 1454-1502). We request that the notice and forms be updated to address changes for SIMPLE IRAs made by the SECURE 2.0 Act, including mid-year plan replacements (section 332), non-elective contributions (section 116), increased contribution limits (section 117), treatment of student loan payments as elective deferrals for purposes of matching contributions (section 110), and Roth contributions (section 601). Further, we request these updates as soon as possible, given that these SIMPLE IRA Forms (and certain other related items as described below) are the mechanism by which many SIMPLE IRA service providers communicate important plan features, limits, and rules. Lastly, we request certain transition relief as described at the end of this letter.

The information collection request (ICR) proposes extending an approved collection for the SIMPLE IRA Forms and Notice referenced above with no changes and requests comments on, among other items, ways to enhance the quality, utility, and clarity of the information to be collected. The SIMPLE IRA Forms are used by an employer to permit employees to make salary reduction contributions to a savings incentive match plan (SIMPLE IRA). Notice 98-4 provides guidance for employers and trustees regarding how they can comply with the requirements of establishing and maintaining a SIMPLE Plan.

The Small Business Job Protection Act of 1996 created SIMPLE IRAs to serve as simplified retirement plans for small employers. Congress specifically intended that this

simplicity be achieved through the absence of complex rules associated with other types of retirement plans. Despite the statutory changes that have been made since 1996, the importance of simplicity is as strong as ever.

The SIMPLE IRA Forms and Notice 98-4 have not been updated since the passage of the SECURE 2.0 Act on December 29, 2022. Among the changes that affect SIMPLE IRAs, Section 601 of SECURE 2.0 allows an employee who participates in a SIMPLE or SEP IRA to designate a Roth IRA as the IRA to which contributions are to be made. The notice and SIMPLE IRA Forms should be updated to reflect the changes made by SECURE 2.0. The following recommendations are intended to provide the Service, taxpayers, and filers clearer guidance to foster compliance with the tax laws and to alleviate administrative burdens and uncertainties.

Notice 98-4 Must be Updated to Reflect Statutory Developments and to Simplify Complex Rules

Below, we explain several issues with the Notice, including ones that we have raised before, that must be addressed to reflect statutory developments (i.e., the Secure 2.0 Act) and Congress's wish to simplify complex rules as much as possible.

The Service provided guidance in Notice 2024-02 related to for SIMPLE Plans, including the reporting of Roth contributions and the application of contribution limit changes. Our organizations made several suggestions for additional guidance, as described in our comments letters on Notice 2024-02.¹ For example, to report employer matching and nonelective contributions made as Roth contributions to a SIMPLE IRA, the notice instructed employers to issue a Form 1099-R tax form intended for reporting retirement account distributions and to code and report contributions as if the amount was previously contributed to another type of IRA then converted. Our letters requested confirmation that a custodian or service provider can be listed as payer, either on the Form 1099-R, if retained, or the Form 5498, instead of the employer, for those members that provide that service to their small employer clients. Accordingly, we wish to reiterate this request here.

We also request confirmation that plan custodian service providers may exclude the option for employers to offer employer Roth non-elective and matching contributions to Roth SIMPLE IRAs and only offer the Roth option for salary reduction (it should also be permissible for the employer to elect such limitations). The ability to design the plan to allow employees to designate a Roth IRA for the employee contributions only, and not the employer contributions, would simplify administration, and promote increased use of the Roth feature in situations where, for example, a plan custodian service provider is able to operationally support Roth employee contributions only (and not Roth non-elective or matching contributions). Clarification

¹ See letters in response to Notice 2024-02: <https://www.ici.org/system/files/2024-02/24-cl-irs-grab-bag-guidance.pdf>; [SIFMA Comments to the IRS on IRS Notice 2024-2: Miscellaneous Changes Under the SECURE 2.0 Act of 2022](#); [ARA-Comment-re-Notice-2024-02-SECURE-2.0-Grab-Bag.pdf](#).

on whether separate forms are needed for employee and employer Roth contributions and on the requirements for tracking the two-year period for transfers and distributions and reporting premature distributions would also be helpful.

We also request guidance on rollovers from Roth SIMPLE IRAs to Roth IRAs, including the application of the five-year holding period.

In addition to the SIMPLE IRA Forms mentioned above (which, we note, are employer forms) and in the OMB Control No. 1454-1502, the SIMPLE IRA employee trust/custodial agreements (Form 5305-S trust agreement and Form 5305-SA custodial agreement) (together, the “Employee Agreements”)) need to be updated in conjunction with the SIMPLE IRA Forms. It will be critical to know if these Employee Agreements will include the Roth options or whether separate Employee Agreements will be required. We strongly suggest that the current forms be updated to include all options. Since SIMPLE IRAs are typically adopted by small employers with limited expert resources and no third-party administrators, this will promote compliance rather than confusion and in the end corrections that will need to be made.

Our letters in response to Notice 2024-02 also requested clarification regarding the application of the changes to the contribution limits made by Section 117 of the SECURE 2.0 Act, and the Service should update Notice 98-4 to reflect the changes.

We also request clarification of when it is permissible for a SIMPLE IRA plan to be amended with an effective date other than January 1. Specifically, confirmation that employers may rely on the safe harbor 401(k) and 403(b) guidance on mid-year changes (e.g., Notice 2016-16).

We request that the Service take this opportunity to address the drafting error regarding the deletion of section 408A(f)(2), as signaled in Notice 2024-02.²

Finally, we suggest that Treasury use this opportunity to incorporate any other updates due to regulatory and legislative changes since the last update in 2012, for example long-term plans for the opinion letter program (IRS Announcement 2022-6) and clarifications for rollovers to SIMPLE plans (section 306 of the Path Act of 2015).³

SIMPLE IRA Forms Must be Updated and Consolidated to Provide Maximum Flexibility

Consolidating and updating the SIMPLE IRA Forms reduces complexity and provides maximum flexibility for plan providers.

² Code section 408A(f)(2) prevents SIMPLE and SEP IRA contributions from counting against the Roth IRA contribution limit. By removing this section, the drafting error would unintentionally reduce the contribution an individual could make to a separate Roth IRA for that year. Q&A, K-8 of Notice 2024-02 indicated that the Service would address the deletion of section 408A(f)(2) in future guidance.

³ Prior to the Protecting Americans from Tax Hikes Act of 2015 (“PATH Act”), only rollovers and transfers from other SIMPLE IRAs were permitted into a SIMPLE IRA, after a two-year waiting period. The PATH Act expanded the ability to roll over from IRAs or eligible retirement plans into a SIMPLE IRA, after the two-year period is met.

We request that the SIMPLE IRA Forms be updated to reflect the SECURE 2.0 Act changes, including allowing for Roth contributions, allowing additional nonelective contributions, incorporating the contribution limit changes, as well as the other SECURE 2.0 Act provisions listed on page one of this letter. Updated model documents would ensure accurate and consistent communication to SIMPLE IRA sponsoring employers and participants regarding the optional SECURE 2.0 changes related to SIMPLE IRAs, changes which are already effective. We recommend the Service consider offering model forms as single plans that offer a variety of options within the same form (e.g., pre-tax only, allowing both Roth and pre-tax employee elective contributions but only pre-tax employer contributions, and offering pre-tax and Roth for all contributions under the plan). As mentioned above, the custodial agreement (Form 5305-SA) and the trust agreement (Form 5305-S) underlying the form would support both the Roth and traditional IRAs.

Transition Relief

Finally, as new guidance and model forms are implemented, we recommend that the Service provide transitional relief. Specifically, employers should be given at least one year to restate the new model plans or one year from a prototype being approved, similar to the last required restatement in 2002. In the interim, we recommend that plan sponsors have the option to make one-time changes during the 2026 calendar year to adopt options relating to Roth provisions. We also recommend that IRS issue guidance on any corrections that may be needed to current practices as firms use reasonable, good faith efforts to implement the SECURE 2.0 Act changes.

We urge the Service to prioritize updating the SIMPLE IRA Forms, Employee Agreements, and Notice 98-4, as many of our member firms rely on the IRS model forms to offer SIMPLE and SEP IRAs, and the SECURE 2.0 changes discussed above are already effective. Additionally, we suggest providing information on the SIMPLE and SEP restatements in the IRS/SSA Reporter, which was also done in 2002. That went a long way to get guidance in the hands of small employers who may have no access to other information.

If you have any questions or would like to discuss these comments further, please reach out to Lisa Bleier at 202-962-7329 or lbleier@sifma.org, Shannon Salinas at 202-326-5809 or shannon.salinas@ici.org, or Susan Diehl at 215-444-9812 x 5041 or susan.diehl@penserv.com.

Sincerely,

Securities Industry and Financial Markets Association
Investment Company Institute
PenServ Plan Services, Inc.

ⁱ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

ⁱⁱ The [Investment Company Institute](#) (ICI) is the leading association representing the asset management industry in service of individual investors. ICI's members include mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in other jurisdictions. Its members manage \$40.5 trillion invested in funds registered under the US Investment Company Act of 1940, serving more than 120 million investors. Members manage an additional \$9.5 trillion in regulated fund assets managed outside the United States. ICI also represents its members in their capacity as investment advisers to collective investment trusts (CITs) and retail separately managed accounts (SMAs). ICI has offices in Washington DC, Brussels, and London.

ⁱⁱⁱ PenServ is a full-service retirement benefits company offering superior consulting and compliance services to employers and retirement benefits professionals. PenServ's third-party administrative (TPA) and recordkeeping services provide point-to-point monitoring, security, and testing to ensure that every aspect of your retirement plan is legally compliant with federal regulations.