

February 20, 2017

The advice below is from the law firm Gail Norris retained to look at the Roth IRA question. As you will see, starting 2017 stipend payments will no longer be the basis for contributing to a Roth IRA since they will no longer be reportable on a W-2.

To the extent any student has additional earned income reportable on a W-2 or as nonemployee compensation on a 1099 from other work, Roth IRA contributions may be made as described below.

Subject: Roth IRA Contribution Issues

We agree with your conclusion that if the University is not reporting any basic stipend on a Form W-2, the graduate students generally will not be able to contribute to a Roth IRA unless they have other Form W-2 reportable income.

Contributing to a Roth IRA With Form W-2 Compensation

The amount a taxpayer may contribute to an IRA (traditional or Roth) for a year generally is limited to the lesser of the applicable contribution limit for the year or the amount of the taxpayer's taxable compensation for the year. In 1991, the Internal Revenue Service ("IRS") issued a Revenue Procedure providing a safe harbor definition of "compensation" for IRA contribution purposes. The safe harbor definition provides that compensation is the amount reported on a Form W-2 as "Wages, tips and other compensation" less any amount shown as a distribution from a non-qualified plan. The regulations under Section 219 of the Internal Revenue Code provide as follows: "For purposes of this section, the term 'compensation' means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in section 401(c)(2), but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income."

For your reference, we have attached excerpts from two of our tax services discussing the compensation limit for purposes of IRA contributions (please see the highlighted language in the first two attachments above). Also, please note that page 6 of IRS Publication 590-A (Contributions to Individual Retirement Arrangements (IRAs)) indicates that "Scholarship and fellowship payments are compensation for IRA purposes **only** if shown in box 1 of Form W-2." (Emphasis added.) Please see the highlighted language in the third attachment.

Contributing to a Roth IRA With Form 1099 Compensation

Regarding your question as to whether income reported on a Form 1099-MISC would be considered compensation for purposes of the IRA contribution limits, the answer would depend on how the Form 1099-MISC income is reported. Amounts reported in box 3, "Other income," on a Form 1099-MISC (generally prizes, awards, etc.) would not be considered compensation for purposes of IRA contributions as these amount are not derived from or received for personal services rendered. Amounts reported in box 7, "Nonemployee compensation," represent amounts paid for services rendered by a non-

employee, and as such those amounts would be earnings from self-employment (subject to self-employment tax) and would be considered compensation for IRA contribution purposes.

We agree with you that to the extent graduate students have Form W-2 earnings from other sources or 1099 nonemployee compensation from other sources, the graduate students may make an IRA contribution equal to the lesser of the amount of those earnings or the applicable contribution limit for the year.