

Treasury Regulation 1.401(a)(9)-1

Minimum distribution requirement in general

(a) *Plans subject to minimum distribution requirement—*

- (1) *In general.* Under section 401(a)(9), all stock bonus, pension, and profit-sharing plans qualified under section 401(a) and annuity contracts described in section 403(a) are subject to required minimum distribution rules. See this section and §§1.401(a)(9)-2 through 1.401(a)(9)-9 for the distribution rules applicable to these plans. Under section 403(b)(10), annuity contracts and custodial accounts described in section 403(b) are subject to required minimum distribution rules. See §1.403(b)-6(e) for the distribution rules applicable to these annuity contracts and custodial accounts. Under section 408(a)(6) and 408(b)(3), individual retirement accounts and individual retirements annuities (collectively, IRAs) are subject to required minimum distribution rules. See §1.408-8 for the minimum distribution rules applicable to IRAs and §1.408A-6 for the minimum distribution rules applicable to Roth IRAs under section 408A. Under section 457(d)(2), eligible deferred compensation plans described in section 457(b) for employees of tax-exempt organizations or employees of State and local governments are subject to required minimum distribution rules. See §1.457-6(d) for the minimum distribution rules applicable to those eligible deferred compensation plans.
- (2) *Participant in multiple plans.* If an employee is a participant in more than one plan, the plans in which the employee participates are not permitted to be aggregated for purposes of testing whether the distribution requirements of section 401(a)(9) are met. Thus, the distribution of the benefit of the employee under each plan must separately meet the requirements of section 401(a)(9). For this purpose, a plan described in section 414(k) is treated as two separate plans, a defined contribution plan to the extent benefits are based on an individual account and a defined benefit plan with respect to the remaining benefits.
- (3) *Governmental plans.* A governmental plan (within the meaning of section 414(d)), or an eligible governmental plan described in §1.457-2(f), is treated as having complied with section 401(a)(9) if the plan complies with a reasonable, good faith interpretation of section 401(a)(9). Thus, the terms of a governmental plan that reflect a reasonable, good faith interpretation of section 401(a)(9) do not have to provide that distributions will be made in accordance with this section and §§1.401(a)(9)-2 through 1.401(a)(9)-9. Similarly, a governmental plan may apply the rules of section 401(a)(9)(F) using the rules of §1.401(a)(9)-6, Q&A-15 (as it

appeared in the April 1, 2023, edition of 26 CFR part 1).

(b) *Statutory effective date*—

(1) *In general.* The distribution rules of section 401(a)(9) generally apply to all account balances and benefits in existence on or after January 1, 1985.

(2) *Effective date for section 401(a)(9)(H)*—

(i) *General effective date.* Except as otherwise provided in this paragraph (b)(2), section 401(a)(9)(H) applies with respect to employees who die on or after January 1, 2020. However, in the case of a governmental plan (as defined in section 414(d)), section 401(a)(9)(H) applies with respect to employees who die on or after January 1, 2022.

(ii) *Delayed effective date for collectively bargained plans*—

(A) *General rule.* In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before December 20, 2019 (the date of enactment of the Further Consolidated Appropriations Act, 2020, Pub. L. 116-94, 133 Stat. 2534 (2019)), section 401(a)(9)(H) generally applies with respect to employees who die on or after January 1, 2022.

(B) *Earlier effective date if agreements terminate.* Notwithstanding paragraph (b)(2)(ii)(A) of this section, section 401(a)(9)(H) applies to a plan maintained pursuant to one or more collective bargaining agreements with respect to employees who die in 2020 or 2021 if--

(1) The year in which the employee dies begins after the date on which the last of the collective bargaining agreements described in paragraph (b)(2)(ii)(A) of this section terminates (determined without regard to any extension thereof to which the parties agreed on or after December 20, 2019), and

(2) Section 401(a)(9)(H) would apply with respect to the employee under the rules of paragraph (b)(2)(i) of this section.

(C) *Rules of application.* For purposes of this paragraph (b)(2)(ii)--

(1) A plan is treated as maintained pursuant to one or more collective bargaining agreements only if the plan constitutes a collectively bargained plan under the rules of §1.436-1(a)(5)(ii)(B), and

(2) Any plan amendment made pursuant to a collective bargaining agreement that amends the plan solely to conform to the requirements of section 401(a)(9)(H) is not treated as a termination of the collective bargaining agreement.

(iii) *Applicability upon death of designated beneficiary—*

(A) *In general.* Except as otherwise provided in this paragraph (b)(2)(iii), if an employee who died before the effective date described in paragraph (b)(2)(i) or (ii) of this section (whichever applies to the plan) has only one designated beneficiary and that beneficiary dies on or after that effective date, then, upon the death of the designated beneficiary, section 401(a)(9)(H) applies with respect to any beneficiary of the employee's designated beneficiary. Section 401(b)(5) of Division O of the Further Consolidated Appropriations Act, 2020 (known as the SECURE Act) provides that, if an employee dies before the effective date, then a designated beneficiary of an employee is treated as an eligible designated beneficiary. Accordingly, once the rules of section 401(a)(9)(H) apply with respect to the employee's designated beneficiary, the rules of section 401(a)(9)(H)(iii) (requiring full distribution of the employee's interest within 10 years after the death of an eligible designated beneficiary) apply upon the designated beneficiary's death.

(B) *Employee with multiple designated beneficiaries.* If an employee described in paragraph (b)(2)(iii)(A) of this section has more than one designated beneficiary, then whether section 401(a)(9)(H) applies is determined based on the date of death of the oldest of the employee's designated beneficiaries. Thus, section 401(a)(9)(H) will apply upon the death of the oldest of the employee's designated beneficiaries if that designated beneficiary is still alive on or after the effective date of section 401(a)(9)(H) for the plan as determined under the rules of paragraph (b)(2)(i) or (ii) of this section. However, see §1.401(a)(9)-8(a) for rules related to the separate application of section 401(a)(9) with respect to multiple beneficiaries if certain requirements are met.

(C) *Surviving spouse of the employee dies before employee's required beginning date.* If an employee described in paragraph (b)(2)(iii)(A) of this section dies before the employee's required beginning date and the employee's surviving spouse is waiting to begin distributions until the year for which the employee would have been required to begin distributions pursuant to section 401(a)(9)(B)(iv)(II), then, in applying the rules of this paragraph (b)(2)(iii), the surviving spouse is treated as the employee. Thus, for example, if an employee with a required beginning date of April

1, 2025, names the employee's surviving spouse as the sole beneficiary of the employee's interest in the plan, both the employee and the employee's surviving spouse die before the effective date of section 401(a)(9)(H) for the plan, and that spouse's designated beneficiary dies on or after that effective date, then section 401(a)(9)(H) applies with respect to the surviving spouse's designated beneficiary upon the death of that designated beneficiary (so that full distribution of the employee's interest must be made no later than the end of the calendar year that includes the tenth anniversary of the date of that designated beneficiary's death).

(iv) *Qualified annuity exception—*

(A) *In general.* Section 401(a)(9)(H) does not apply to a commercial annuity (as defined in section 3405(e)(6))--

(1) That is a binding annuity contract in effect as of December 20, 2019;

(2) Under which payments satisfy the requirements of §§1.401(a)(9)-1 through 1.401(a)(9)-9 (as those sections appeared in the April 1, 2019, edition of 26 CFR part 1); and

(3) That satisfies the irrevocability requirements of paragraph (b)(2)(iv)(B) of this section.

(B) *Irrevocability requirements applicable to annuity contract.* A contract satisfies the requirements of this paragraph (b)(2)(iv)(B) if the employee (or, if the employee has died, the designated beneficiary) has made an irrevocable election before December 20, 2019, as to the method and amount of annuity payments to the employee and any designated beneficiary.

(3) *Examples.* The following examples illustrate the applicability date rules of this paragraph (b).

(i) *Example 1.* Employer M maintains a defined contribution plan, Plan X.

Employee A died in 2017, at the age of 68, and designated A's 40-year-old child, B, who was not disabled or chronically ill at the time of A's death, as the sole beneficiary of A's interest in Plan X. Pursuant to a plan provision in Plan X, B elected to take distributions over B's life expectancy under section 401(a)(9)(B)(iii). B dies in 2024, after the effective date of section 401(a)(9)(H). Because section 401(b)(5) of the SECURE Act treats B as an eligible designated beneficiary, the rules of section 401(a)(9)(H)(iii) apply to B's beneficiaries. Therefore, A's remaining interest in Plan X must be distributed by the end of 2034 (the calendar year that includes the tenth

anniversary of B's death).

- (ii) *Example 2.* The facts are the same as in paragraph (b)(3)(i) of this section (*Example 1*), except that B died in 2019. Because A's designated beneficiary died before the effective date of section 401 of the SECURE Act, the rules of section 401(a)(9)(H) do not apply to B's beneficiaries.
- (iii) *Example 3.* The facts are the same as in paragraph (b)(3)(i) of this section (*Example 1*) except that, pursuant to a provision in Plan X, B elected the 5-year rule under section 401(a)(9)(B)(ii). Accordingly, A's entire interest is required to be distributed by the end of 2022. Because A died before January 1, 2020, section 401(a)(9)(H) does not apply with respect to B. Therefore, section 401(a)(9)(H)(i)(I) does not extend the 5-year period under B's election to a 10-year period. Although B's election required A's entire interest to be distributed by the end of 2022, the enactment of section 401(a)(9)(I)(iii)(II) (permitting disregard of 2020 when the 5-year period applies) permits distribution of A's entire interest in the plan to be delayed until the end of 2023.
- (iv) *Example 4.* The facts are the same as in paragraph (b)(3)(i) of this section (*Example 1*), except that A designates a see-through trust that satisfies the requirements of §1.401(a)(9)-4(f)(2) as the sole beneficiary of A's interest in Plan X. All of the trust beneficiaries are alive as of January 1, 2020. The oldest of the trust beneficiaries, C, died in 2022. Because section 401(b)(5) of the SECURE Act treats C as an eligible designated beneficiary, the rules of section 401(a)(9)(H)(iii) apply to the other trust beneficiaries. Thus, unless the rules of §1.401(a)(9)-5(f)(2)(ii)(B) or (iii) apply, A's remaining interest in Plan X must be distributed by the end of 2032 (the calendar year that includes the tenth anniversary of C's death).
- (v) *Example 5.* The facts are the same as in paragraph (b)(3)(iv) of this section (*Example 4*), except that C died in 2019. Because the oldest designated beneficiary died before January 1, 2020, the rules of section 401(a)(9)(H) do not apply to any of the other trust beneficiaries.
- (vi) *Example 6.* The facts are the same as in paragraph (b)(3)(i) of this section (*Example 1*), except that B elected to purchase an annuity that pays over B's lifetime with a 15-year certain period starting in the calendar year following the calendar year of A's death. Because B died after the effective date of section

401(a)(9)(H), the rules of section 401(a)(9)(H)(iii) apply, and accordingly, the annuity may not provide distributions any later than the end of 2034.

(c) Required and optional plan provisions—

(1) *Required provisions.* In order to satisfy section 401(a)(9), a plan must include the provisions described in this paragraph (c)(1) reflecting section 401(a)(9). First, a plan generally must set forth the statutory rules of section 401(a)(9), including the incidental death benefit requirement in section 401(a)(9)(G). Second, a plan must provide that distributions will be made in accordance with this section and §§1.401(a)(9)-2 through 1.401(a)(9)-9. A plan document also must provide that the provisions reflecting section 401(a)(9) override any distribution options in the plan that are inconsistent with section 401(a)(9). A plan also must include any other provisions reflecting section 401(a)(9) that are prescribed by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d) of this chapter.

(2) *Optional provisions.* A plan may also include optional provisions governing plan distributions that do not conflict with section 401(a)(9). For example, a defined benefit plan may include a provision described in §1.401(a)(9)-3(b)(4)(ii) (requiring that the 5- year rule apply to an employee who has a designated beneficiary). Similarly, a defined contribution plan may provide for an election by an eligible designated beneficiary as described in §1.401(a)(9)-3(c)(5)(iii).

(d) *Regulatory applicability date.* This section and §§1.401(a)(9)-2 through 1.401(a)(9)-9 apply for purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2025. For earlier calendar years, the rules of §§1.401(a)(9)-1 through 1.401(a)(9)-9 (as those sections appeared in the April 1, 2023, edition of 26 CFR part 1) apply.