

## **Treasury Regulation 1.402(c)-2**

### **Eligible rollover distributions**

#### **(a) Overview of rollover and related statutory provisions—**

##### **(1) General rule—**

(i) *Rollover of distribution paid to employee.* Under section 402(c), any portion of a distribution paid to an employee from a qualified plan that is an eligible rollover distribution described in section 402(c)(4) may be rolled over to an eligible retirement plan described in section 402(c)(8)(B). See paragraph (j) of this section for rules relating to distributions paid to a surviving spouse or a non-spousal beneficiary.

(ii) *Exclusion from income.* Except as otherwise provided in this section, if an eligible rollover distribution is paid to an employee, then the amount distributed is not currently includible in gross income, provided that it is contributed to an eligible retirement plan no later than the 60th day following the day on which the employee received the distribution. However, if all or any portion of the amount distributed (including any amount withheld as income tax under section 3405(c)) is not contributed as a rollover, it is included in the employee's gross income to the extent required under section 402(a), and also may be subject to the 10-percent additional income tax under section 72(t).

##### **(iii) Definition of eligible retirement plan—**

(A) *In general.* An eligible retirement plan means an IRA described in paragraph (a)(1)(iii)(B)(1) of this section or a qualified plan described in paragraph (a)(1)(iii)(B)(2) of this section. In addition, an eligible deferred compensation plan described in section 457(b) that is maintained by an employer described in section 457(e)(1)(A) is treated as an eligible retirement plan, but only if the plan separately accounts for the amount of the rollover.

(B) *Definitions of IRA and qualified plan.* For purposes of section 402(c) and this section--

(1) An IRA is an individual retirement account described in section 408(a) or an individual retirement annuity (other than an endowment contract) described in section 408(b); and

(2) A qualified plan is an employees' trust described in section 401(a) that is exempt from tax under section 501(a), an annuity plan described in section 403(a), or an annuity contract described in

section 403(b).

- (iv) *Multiple distributions.* If more than one distribution is received by an employee from a qualified plan during a taxable year, the 60-day deadline applies separately to each distribution. Because the amount withheld as income tax under section 3405(c) is considered an amount distributed under section 402(c), an amount equal to all or any portion of the amount withheld may be contributed as a rollover to an eligible retirement plan within the 60-day period in addition to the net amount of the eligible rollover distribution actually received by the employee.
- (v) *Definition of rollover.* For purposes of section 402(c) and this section, a rollover is--
- (A) A direct rollover as described in §1.401(a)(31)-1, Q&A-3;
  - (B) A contribution of an eligible rollover distribution to an eligible retirement plan that, except as provided in paragraph (b)(2) of this section, satisfies the time period requirement in paragraph (a)(1)(ii) of this section and the designation requirement described in paragraph (k)(1) of this section; or
  - (C) A repayment of a distribution that is treated as a rollover, as described in paragraph (a)(1)(vi) of this section.
- (vi) *Certain repayments treated as rollovers.* The repayment of a distribution is treated as a rollover if that treatment is prescribed under another statutory provision. For example, the repayment of a qualified disaster recovery distribution under section 72(t)(11)(C) is treated as a rollover for purposes of this section.

(2) *Related Internal Revenue Code provisions—*

- (i) *Direct rollover option.* Section 401(a)(31) requires qualified plans to provide a distributee of an eligible rollover distribution the option to elect to have the distribution paid directly to an eligible retirement plan in a direct rollover. See §1.401(a)(31)-1 for further guidance concerning this direct rollover option.
- (ii) *Notice requirement.* Section 402(f) requires the plan administrator of a qualified plan to provide, within a reasonable time before making an eligible rollover distribution, a written explanation to the distributee of the distributee's right to elect a direct rollover and the withholding consequences of not making that election. The explanation also is required to provide certain other relevant information relating to the taxation of distributions. See §1.402(f)-1 for guidance concerning the written explanation required under

section 402(f).

(iii) *Mandatory income tax withholding.* If a distributee of an eligible rollover distribution does not elect to have the eligible rollover distribution paid directly from the plan to an eligible retirement plan in a direct rollover under section 401(a)(31), the eligible rollover distribution is subject to mandatory income tax withholding under section 3405(c). See §31.3405(c)-1 of this chapter for provisions relating to the withholding requirements applicable to eligible rollover distributions.

(iv) *Section 403(b) annuities.* See §1.403(b)-7(b) for guidance concerning the direct rollover requirements for distributions from annuities described in section 403(b).

(3) *Applicability date—*

(i) *In general.* The rules provided in this section apply to any distribution made on or after January 1, 2025.

(ii) *Distributions prior to January 1, 2025.* For any distribution made before January 1, 2025, the rules of 26 CFR §1.402(c)-2 and 26 CFR §1.402(c)-3 (as they appeared in the April 1, 2023, edition of 26 CFR part 1) apply. Alternatively, the rules provided in this section may be applied to those distributions.

(b) *Special rules—*

(1) *Rules related to Roth accounts—*

(i) *Treatment of Roth conversions.* If all or any portion of an eligible rollover distribution that is rolled over to a Roth IRA is not from a designated Roth account described in section 402A, then the amount rolled over to the Roth IRA is included in the employee's gross income to the extent required under section 402(a). However, the amount rolled over to a Roth IRA generally is not subject to the 10-percent additional income tax under section 72(t).

(ii) *Treatment of distributions from designated Roth accounts.* A distribution from a designated Roth account may be rolled over only to another designated Roth account or to a Roth IRA. See §1.402A-1, Q&A-5 for rules that apply to such a rollover.

(2) *Extensions of and exceptions to 60-day deadline—*

(i) *Waiver of 60-day deadline.* The Commissioner may waive the 60-day deadline described in paragraph (a)(1)(ii) of this section if the failure to waive that requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual with

respect to such requirement. See section 402(c)(3)(B).

(ii) *Frozen deposits.* The 60-day period described in paragraph (a)(1)(ii) of this section does not include any period during which the amount transferred to the employee is a frozen deposit described in section 402(c)(7)(B). The 60-day period also does not end earlier than 10 days after that amount ceases to be a frozen deposit.

(iii) *Exception for qualified plan loan offsets.* See paragraph (g) of this section for the timing requirements related to the rollover of a qualified plan loan offset amount.

(iv) *Other distributions treated as rollovers.* In the case of a repayment of a distribution treated as a rollover as described in paragraph (a)(1)(vi) of this section, see the applicable statutory provision and accompanying regulations, if any, for the timing requirements relating to the repayment.

(3) *Special rules for distribution that includes basis—*

(i) *Rollover of basis to IRA.* If an eligible rollover distribution includes some or all of an employee's basis (that is, the employee's investment in the contract), then the portion of the distribution that is allocable to the employee's basis may be rolled over to an IRA.

(ii) *Rollover of basis to qualified trust must be done through direct trustee-to-trustee transfer.* If an eligible rollover distribution includes some or all of an employee's basis, then the portion of an eligible rollover distribution that is allocable to the employee's basis may be rolled over to a qualified plan only through a direct trustee-to-trustee transfer. In that case, the qualified trust or annuity contract must provide for separate accounting of the amount transferred (and earnings on that amount) including separately accounting for the portion of the distribution that includes an employee's basis and the portion of the distribution that does not include basis.

(iii) *Rollover of basis to section 457(b) plans not permitted.* The portion of an eligible rollover distribution that is allocable to an employee's basis may not be rolled over to an eligible deferred compensation plan described in section 457(b).

(iv) *Rollover of portion of distribution.* If an eligible rollover distribution includes some or all of an employee's basis and less than the entire distribution is being rolled over, then the amount rolled over is treated as consisting first of the portion of the distribution that is not allocable to the employee's basis.

(4) *Special rules for distributions that include property—*

- (i) *In general.* Except as provided in paragraph (b)(4)(ii) of this section, if an eligible rollover distribution consists of property other than money, then, only that property may be rolled over to an eligible retirement plan.
- (ii) *Rollover of proceeds permitted.* In the case of an eligible rollover distribution that consists of property other than money, the proceeds of the sale of that property may be rolled over to an eligible retirement plan. However, to the extent those proceeds exceed the property's fair market value at the time of the sale, that excess may not be rolled over. See section 402(c)(6)(C) and (D) for other rules relating to the sale of distributed property.

(c) *Definition of eligible rollover distribution—*

- (1) *General rule.* Unless specifically excluded, an eligible rollover distribution means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified plan. Thus, except as specifically provided in paragraph (c)(2) or (3) of this section, any amount distributed to an employee from a qualified plan is an eligible rollover distribution, regardless of whether it is a distribution of a benefit that is protected under section 411(d)(6).
- (2) *Exceptions.* An eligible rollover distribution does not include the following:
  - (i) Any distribution that is one of a series of substantially equal periodic payments made (not less frequently than annually) over any one of the following periods-
    - (A) The life of the employee (or the joint lives of the employee and the employee's designated beneficiary);
    - (B) The life expectancy of the employee (or the joint life and last survivor expectancy of the employee and the employee's designated beneficiary); or
    - (C) A specified period of ten years or more;
  - (ii) Any distribution to the extent the distribution is a required minimum distribution under section 401(a)(9); or
  - (iii) Any distribution that is made on account of hardship.
- (3) *Other amounts not treated as eligible rollover distributions.* The following amounts are not treated as eligible rollover distributions:
  - (i) Elective deferrals (as defined in section 402(g)(3)) and employee contributions that, pursuant to rules prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal

Revenue Bulletin (see §601.601(d) of this chapter), are returned to the employee (together with the income allocable thereto) in order to comply with the section 415 limitations;

- (ii) Corrective distributions of excess deferrals as described in §1.402(g)-1(e)(3), together with the income allocable to these corrective distributions;
- (iii) Corrective distributions of excess contributions under a qualified cash or deferred arrangement described in §1.401(k)-2(b)(2) and excess aggregate contributions described in §1.401(m)-2(b)(2), together with the income allocable to these distributions;
- (iv) Loans that are treated as deemed distributions pursuant to section 72(p);
- (v) Subject to the rules of paragraph (c)(4) of this section, dividends paid on employer securities as described in section 404(k);
- (vi) The costs of life insurance coverage includible in the employee's income under section 72(m)(3)(B);
- (vii) Prohibited allocations that are treated as deemed distributions pursuant to section 409(p);
- (viii) Distributions that are permissible withdrawals from an eligible automatic contribution arrangement within the meaning of section 414(w);
- (ix) Distributions of premiums for accident or health insurance under §1.402(a)-1(e)(1)(i) (other than distributions subject to section 402(l), as described in §1.402(a)-1(e)(3));
- (x) Amounts treated as distributed as a result of the purchase of a collectible pursuant to section 408(m); and
- (xi) Similar items designated by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d) of this chapter.

(4) *Dividends reinvested in employer securities.* Dividends paid to an employee stock ownership plan (as defined in section 4975(e)(7)) that are reinvested in employer securities pursuant to a participant election under section 404(k)(2)(A)(iii)(II) are included in the participant's account balance and lose their character as dividends when subsequently distributed from the account. As a result, these amounts are eligible rollover distributions if they otherwise meet the requirements of this paragraph (c).

(d) *Determination of substantially equal periodic payments—*

(1) *General rule.* For purposes of paragraph (c)(2)(i) of this section, and except as

provided in this paragraph (d) or paragraph (e) of this section, whether a series of payments is a series of substantially equal periodic payments over a specified period is determined at the time payments begin, and by following the principles of section 72(t)(2)(A)(iv), without regard to contingencies or modifications that have not yet occurred. Thus, for example, a joint and 50-percent survivor annuity will be treated as a series of substantially equal periodic payments at the time payments commence, as will a joint and survivor annuity that provides for increased payments to the employee if the employee's beneficiary dies before the employee. Similarly, for purposes of determining if a disability benefit payment is part of a series of substantially equal periodic payments for a period described in section 402(c)(4)(A), any contingency under which payments cease upon recovery from the disability may be disregarded.

- (2) *Certain supplements disregarded.* For purposes of determining whether a distribution is one of a series of periodic payments that are substantially equal, social security supplements described in section 411(a)(9) are disregarded. For example, if a distributee receives a life annuity of \$500 per month, plus a social security supplement consisting of payments of \$200 per month until the distributee reaches the age at which social security benefits of not less than \$200 a month begin, the \$200 supplemental payments are disregarded and, therefore, each monthly payment of \$700 made before the social security age and each monthly payment of \$500 made after the social security age is treated as one of a series of substantially equal periodic payments for life. A series of periodic payments that are not substantially equal solely because the amount of each payment is reduced upon attainment of social security retirement age (or, alternatively, upon commencement of social security early retirement, survivor, or disability benefits) is also treated as substantially equal as long as the reduction in the actual payments is level and does not exceed the applicable social security benefit.
- (3) *Changes in the amount of payments or the distributee.* If the amount (or, if applicable, the method of calculating the amount) of the payments changes so that subsequent payments are not substantially equal to prior payments, then a new determination must be made as to whether the remaining payments are a series of substantially equal periodic payments over a period specified in paragraph (c)(2)(i) of this section. This determination is made without taking into account payments made or the years of payment that elapsed prior to the change. However, a new determination is not made merely because, upon the

death of the employee, the employee's beneficiary becomes the distributee.

Thus, if distributions commence over a period that is at least as long as either the first annuitant's life or 10 years, then substantially equal payments to the survivor are not eligible rollover distributions even though the payment period remaining after the death of the employee is or may be less than the period described in section 402(c)(4)(A). For example, substantially equal periodic payments made under a life annuity with a five-year term certain would not be an eligible rollover distribution even when paid after the death of the employee with three years remaining under the term certain.

(4) *Defined contribution plans.* The following rules apply in determining whether a series of payments from a defined contribution plan constitutes a series of substantially equal periodic payments for a period described in section 402(c)(4)(A)--

- (i) *Declining balance of years.* A series of payments from an account balance under a defined contribution plan over a period is considered a series of substantially equal periodic payments over that period if, for each year, the amount of the distribution is calculated by dividing the account balance by the number of years remaining in the period. For example, a series of payments is considered substantially equal payments over 10 years if the series is determined as follows. In year 1, the annual payment is the account balance divided by 10; in year 2, the annual payment is the remaining account balance divided by 9; and so on until year 10 when the entire remaining balance is distributed.
- (ii) *Reasonable actuarial assumptions.* If an employee's account balance under a defined contribution plan is to be distributed in annual installments of a specified amount until the account balance is exhausted, then, for purposes of determining if the period of distribution is a period described in section 402(c)(4)(A), the period of years over which the installments will be distributed must be determined using reasonable actuarial assumptions. For example, if an employee has an account balance of \$100,000, the employee elects distributions of \$12,000 per year until the account balance is exhausted, and the future rate of return is assumed to be 5 percent per year, the account balance will be exhausted in approximately 12 years. Similarly, if the same employee elects a fixed annual distribution amount and the fixed annual amount is less than or equal to \$10,000, it is reasonable to assume that the future rate of return will be greater than 0 percent and, thus, the account will

not be exhausted in less than 10 years.

(e) *Determination of whether a payment is an independent payment—*

(1) *Definition of independent payments.* Except as provided in paragraphs (e)(2) and (3) of this section, a payment is treated as independent of the payments in a series of substantially equal payments, and thus not part of the series described in paragraph (c)(2)(i) of this section, if the payment is substantially larger or smaller than the other payments in the series. An independent payment is an eligible rollover distribution if it is not otherwise excepted from the definition of eligible rollover distribution. This rule applies regardless of whether the payment is made before, with, or after payments in the series. For example, if an employee elects a single payment of half of the account balance with the remainder of the account balance paid over the life expectancy of the distributee, the single payment is treated as independent of the payments in the series and is an eligible rollover distribution unless otherwise excepted. Similarly, if an employee's surviving spouse receives a survivor life annuity of \$1,000 per month plus a single payment on account of death of \$7,500, the single payment is treated as independent of the payments in the annuity and is an eligible rollover distribution unless otherwise excepted.

(2) *Special rules—*

(i) *Administrative error or delay.* If, due solely to reasonable administrative error or delay in payment, there is an adjustment after the annuity starting date to the amount of any payment in a series of payments that otherwise would constitute a series of substantially equal payments described in section 402(c)(4)(A) and this section, the adjusted payment or payments are treated as part of the series of substantially equal periodic payments and are not treated as independent of the payments in the series. For example, if, due solely to reasonable administrative delay, the first payment of a life annuity is delayed by two months and reflects an additional two months' worth of benefits, that payment is treated as a substantially equal payment in the series rather than as an independent payment. The result does not change merely because the amount of the adjustment is paid in a separate supplemental payment.

(ii) *Supplemental payments for annuitants.* A supplemental payment from a defined benefit plan to an annuitant (that is, a retiree or beneficiary) is treated as part of a series of substantially equal payments, rather than as an

independent payment, provided that the following conditions are met--

(A) The supplement is a benefit increase for annuitants;

(B) The amount of the supplement is determined in a consistent manner for all similarly situated annuitants;

(C) The supplement is paid to annuitants who are otherwise receiving payments that would constitute substantially equal periodic payments; and

(D) The aggregate supplement is less than or equal to the greater of 10 percent of the annual rate of payment for the annuity, or \$750.

(iii) *Final payment in a series.* If a payment in a series of periodic payments from an account balance under a defined contribution plan is equal to the remaining balance in the account and is substantially less than the other payments in the series, the final payment must nevertheless be treated as a payment in the series of substantially equal periodic payments and may not be treated as an independent payment if the other payments in the series are substantially equal and the payments are for a period described in section 402(c)(4)(A) based on the rules provided in paragraph (d)(4)(ii) of this section.

Thus, the final payment will not be an eligible rollover distribution.

(3) *Additional guidance.* The Commissioner, in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin, may provide additional rules for determining what is an independent payment under paragraph (e)(1) of this section and may prescribe a higher amount than the \$750 amount in paragraph (e)(2)(ii)(D) of this section. See §601.601(d) of this chapter.

(f) *Determination of whether a distribution is a required minimum distribution—*

(1) *Determination for calendar year of distribution.* Except as provided in paragraphs (f)(2) and (3) of this section, if a minimum distribution is required for a calendar year, then the amounts distributed during that calendar year are treated as required minimum distributions under section 401(a)(9) to the extent that the total minimum distribution required under section 401(a)(9) for the calendar year has not been satisfied (and accordingly, those amounts are not eligible rollover distributions). For example, if an employee is required under section 401(a)(9) to receive a minimum distribution for a calendar year of \$5,000 and the employee receives a total of \$7,200 in that year, the first \$5,000 distributed will be treated as the required minimum distribution and will not be an eligible rollover distribution, and the remaining \$2,200 will be an

eligible rollover distribution if it otherwise qualifies. If the total section 401(a)(9) required minimum distribution for a calendar year prior to the calendar year of the distribution is not distributed in that calendar year (for example, when the distribution for the calendar year in which the employee reaches the applicable age is made on April 1 of the following calendar year), then the amount that was required to be distributed, but not distributed, is added to the amount required to be distributed for the next calendar year in determining the portion of any distribution in the next calendar year that is a required minimum distribution (and, thus, is not an eligible rollover distribution).

(2) *Distribution before first distribution calendar year.* Any amount that is paid to an employee before January 1 of the first distribution calendar year for the employee (as described in §1.401(a)(9)-5(a)(2)(ii)) is not treated as required under section 401(a)(9) and, thus, is an eligible rollover distribution if it otherwise qualifies.

(3) *Special rule for annuities.* In the case of annuity payments from a defined benefit plan, or under an annuity contract purchased from an insurance company (including a qualified plan distributed annuity contract (as defined in paragraph (h) of this section)), the entire amount of any annuity payment made on or after January 1 of the first distribution calendar year for the employee (as described in §1.401(a)(9)-5(a)(2)(ii)) is treated as an amount required under section 401(a)(9) and, thus, is not an eligible rollover distribution.

(g) *Treatment of plan loan offset amounts—*

(1) *General rule.* A distribution of a plan loan offset amount, as defined in paragraph (g)(3)(i) of this section (including a qualified plan loan offset amount, a type of plan loan offset amount defined in paragraph (g)(3)(ii) of this section), is an eligible rollover distribution if it is described in paragraph (c) of this section. See §1.401(a)(31)-1, Q&A-16, for guidance concerning the offering of a direct rollover of a plan loan offset amount. See also §31.3405(c)-1, Q&A-11, of this chapter for guidance concerning special withholding rules with respect to plan loan offset amounts.

(2) *Rollover period for a plan loan offset amount—*

(i) *Plan loan offset amount that is not a qualified plan loan offset amount.* A distribution of a plan loan offset amount that is an eligible rollover distribution and that is not a qualified plan loan offset amount may be rolled over by the employee to an eligible retirement plan within the 60-day period set forth in section 402(c)(3)(A), as described in paragraph (a)(1)(ii) of this section.

(ii) *Plan loan offset amount that is a qualified plan loan offset amount.* A distribution of a plan loan offset amount that is an eligible rollover distribution and that is a qualified plan loan offset amount may be rolled over by the employee to an eligible retirement plan within the period set forth in section 402(c)(3)(C), which is the individual's tax filing due date (including extensions) for the taxable year in which the offset is treated as distributed from a qualified employer plan.

(3) *Definitions—*

(i) *Plan loan offset amount.* For purposes of section 402(c), a plan loan offset amount is the amount by which, under the plan terms governing a plan loan, an employee's accrued benefit is reduced (offset) in order to repay the loan (including the enforcement of the plan's security interest in an employee's accrued benefit). A distribution of a plan loan offset amount can occur in a variety of circumstances, for example, when the terms governing a plan loan require that, in the event of the employee's termination of employment or request for a distribution, the loan be repaid immediately or treated as in default. A distribution of a plan loan offset amount also occurs when, under the terms governing the plan loan, the loan is cancelled, accelerated, or treated as if it were in default (for example, when the plan treats a loan as in default upon an employee's termination of employment or within a specified period thereafter). A distribution of a plan loan offset amount is an actual distribution, not a deemed distribution under section 72(p).

(ii) *Qualified plan loan offset amount.* For purposes of section 402(c), a qualified plan loan offset amount is a plan loan offset amount that satisfies the following requirements:

(A) The plan loan offset amount is treated as distributed from a qualified employer plan to an employee or beneficiary solely by reason of the termination of the qualified employer plan, or the failure to meet the repayment terms of the loan because of the severance from employment of the employee; and

(B) The plan loan offset amount relates to a plan loan that met the requirements of section 72(p)(2) immediately prior to the termination of the qualified employer plan or the severance from employment of the employee, as applicable.

(iii) *Qualified employer plan.* For purposes of section 402(c) and this section,

a qualified employer plan is a qualified employer plan as defined in section 72(p)(4).

(4) *Special rules for qualified plan loan offset amounts—*

(i) *Definition of severance from employment.* For purposes of paragraph (g)(3)(ii)(A) of this section, whether an employee has a severance from employment with the employer that maintains the qualified employer plan is determined in the same manner as under §1.401(k)-1(d)(2). Thus, an employee has a severance from employment when the employee ceases to be an employee of the employer maintaining the plan.

(ii) *Offset because of severance from employment.* A plan loan offset amount is treated as distributed from a qualified employer plan to an employee or beneficiary solely by reason of the failure to meet the repayment terms of a plan loan because of severance from employment of the employee if the plan loan offset:

(A) Relates to a failure to meet the repayment terms of the plan loan, and

(B) Occurs within the period beginning on the date of the employee's severance from employment and ending on the first anniversary of that date.

(5) *Examples.* The following examples illustrate the rules with respect to plan loan offset amounts, including qualified plan loan offset amounts, in this paragraph (g) and in §§1.401(a)(31)-1, Q&A-16, and 31.3405(c)-1, Q&A-11, of this chapter. For purposes of these examples, each reference to a plan refers to a qualified employer plan as described in section 72(p)(4).

(i) *Example 1—*

(A) In 2025, Employee A has an account balance of \$10,000 in Plan Y, of which \$3,000 is invested in a plan loan to Employee A that is secured by Employee A's account balance in Plan Y. Employee A has made no after-tax employee contributions to Plan Y. The plan loan meets the requirements of section 72(p)(2). Plan Y does not provide any direct rollover option with respect to plan loans. Employee A severs from employment on June 15, 2025. After severance from employment, Plan Y accelerates the plan loan and provides Employee A 90 days to repay the remaining balance of the plan loan. Employee A, who is under the age set forth in section 401(a)(9)(C)(i)(I), does not repay the loan within the 90 days and instead elects a direct rollover of Employee A's entire account

balance in Plan Y. On September 18, 2025 (within the 12-month period beginning on the date that Employee A severed from employment), Employee A's outstanding loan is offset against the account balance.

(B) In order to satisfy section 401(a)(31), Plan Y must make a direct rollover by paying \$7,000 directly to the eligible retirement plan chosen by Employee A. When Employee A's account balance was offset by the amount of the \$3,000 unpaid loan balance, Employee A received a plan loan offset amount (equivalent to \$3,000) that is an eligible rollover distribution. However, under §1.401(a)(31)-1, Q&A-16, Plan Y satisfies section 401(a)(31), even though a direct rollover option was not provided with respect to the \$3,000 plan loan offset amount.

(C) No withholding is required under section 3405(c) on account of the distribution of the \$3,000 plan loan offset amount because no cash or other property (other than the plan loan offset amount) is received by Employee A from which to satisfy the withholding.

(D) The \$3,000 plan loan offset amount is a qualified plan loan offset amount within the meaning of paragraph (g)(3)(ii) of this section. Accordingly, Employee A may roll over up to the \$3,000 qualified plan loan offset amount to an eligible retirement plan within the period that ends on the employee's tax filing due date (including extensions) for the taxable year in which the offset occurs.

(ii) *Example 2—*

(A) The facts are the same as in paragraph (g)(5)(i) of this section (*Example 1*), except that, rather than accelerating the plan loan, Plan Y permits Employee A to continue making loan installment payments after severance from employment. Employee A continues making loan installment payments until January 1, 2026, at which time Employee A does not make the loan installment payment due on January 1, 2026. In accordance with §1.72(p)-1, Q&A-10, Plan Y allows a cure period that continues until the last day of the calendar quarter following the quarter in which the required installment payment was due. Employee A does not make a plan loan installment payment during the cure period. Plan Y offsets the unpaid \$3,000 loan balance against Employee A's account balance on July 1, 2026 (which is after the 12-month period beginning on the date that Employee A severed from employment).

(B) The conclusion is the same as in paragraph (g)(5)(i) of this section (*Example 1*), except that the \$3,000 plan loan offset amount is not a qualified plan loan offset amount (because the offset did not occur within the 12-month period beginning on the date that Employee A severed from employment). Accordingly, Employee A may roll over up to the \$3,000 plan loan offset amount to an eligible retirement plan within the 60-day period provided in section 402(c)(3)(A) (rather than within the period that ends on Employee A's tax filing due date (including extensions) for the taxable year in which the offset occurs).

(iii) *Example 3—*

(A) The facts are the same as in paragraph (g)(5)(i) of this section (*Example 1*), except that the terms governing the plan loan to Employee A provide that, upon severance from employment, Employee A's account balance is automatically offset by the amount of any unpaid loan balance to repay the loan. Employee A severs from employment but does not request a distribution from Plan Y. Nevertheless, pursuant to the terms governing the plan loan, Employee A's account balance is automatically offset on June 15, 2025, by the amount of the \$3,000 unpaid loan balance.

(B) The \$3,000 plan loan offset amount is a qualified plan loan offset amount within the meaning of paragraph (g)(3)(ii) of this section. Accordingly, Employee A may roll over up to the \$3,000 qualified plan loan offset amount to an eligible retirement plan within the period that ends on Employee A's tax filing due date (including extensions) for the taxable year in which the offset occurs.

(iv) *Example 4—*

(A) The facts are the same as in paragraph (g)(5)(i) of this section (*Example 1*), except that Employee A elects to receive a cash distribution of the account balance that remains after the \$3,000 plan loan offset amount, instead of electing a direct rollover of the remaining account balance.

(B) The amount of the distribution received by Employee A is \$10,000 (\$3,000 relating to the plan loan offset and \$7,000 relating to the cash distribution). Because the amount of the \$3,000 plan loan offset amount attributable to the loan is included in determining the amount of the eligible rollover distribution to which withholding applies, withholding in the amount of \$2,000 (20 percent of \$10,000) is required under section 3405(c). The \$2,000 is required to be withheld from the \$7,000 to be

distributed to Employee A in cash, so that Employee A actually receives a cash amount of \$5,000.

- (C) The \$3,000 plan loan offset amount is a qualified plan loan offset amount within the meaning of paragraph (g)(3)(ii) of this section. Accordingly, Employee A may roll over up to the \$3,000 qualified plan loan offset to an eligible retirement plan within the period that ends on Employee A's tax filing due date (including extensions) for the taxable year in which the offset occurs. In addition, Employee A may roll over up to \$7,000 (the portion of the distribution that is not related to the offset) within the 60-day period provided in section 402(c)(3).

(v) *Example 5—*

- (A) The facts are the same as in paragraph (g)(5)(iv) of this section (*Example 4*), except that the \$7,000 distribution to Employee A after the offset consists solely of employer securities within the meaning of section 402(e)(4)(E).
- (B) No withholding is required under section 3405(c) because the distribution consists solely of the \$3,000 plan loan offset amount and the \$7,000 distribution of employer securities. This is the result because the total amount required to be withheld does not exceed the sum of the cash and the fair market value of other property distributed, excluding plan loan offset amounts and employer securities.
- (C) Employee A may roll over up to the \$7,000 of employer securities to an eligible retirement plan within the 60-day period provided in section 402(c)(3). The \$3,000 plan loan offset amount is a qualified plan loan offset amount within the meaning of paragraph (g)(3)(ii) of this section. Accordingly, Employee A may roll over up to the \$3,000 qualified plan loan offset amount to an eligible retirement plan within the period that ends on Employee A's tax filing due date (including extensions) for the taxable year in which the offset occurs.

(vi) *Example 6—*

- (A) Employee B, who is age 40, has an account balance in Plan Z. Plan Z does not provide for after-tax employee contributions. In 2025, Employee B receives a loan from Plan Z, the terms of which satisfy section 72(p)(2). The loan is secured by elective contributions subject to the distribution restrictions in section 401(k)(2)(B).
- (B) Employee B fails to make an installment payment due on April 1, 2026, or

any other monthly payments thereafter. In accordance with §1.72(p)-1, Q&A-10, Plan Z allows a cure period that continues until the last day of the calendar quarter following the quarter in which the required installment payment was due (September 30, 2026). Employee B does not make a plan loan installment payment during the cure period. On September 30, 2026, pursuant to section 72(p)(1), Employee B is taxed on a deemed distribution equal to the amount of the unpaid loan balance. Pursuant to paragraph (c)(3)(iv) of this section, the deemed distribution is not an eligible rollover distribution.

(C) Because Employee B has not severed from employment or experienced any other event that permits the distribution under section 401(k)(2)(B) of the elective contributions that secure the loan, Plan Z is prohibited from executing on the loan. Accordingly, Employee B's account balance is not offset by the amount of the unpaid loan balance at the time of the deemed distribution. Thus, there is no distribution of an offset amount that is an eligible rollover distribution on September 30, 2026.

(vii) *Example 7—*

(A) The facts are the same as in paragraph (g)(5)(vi) of this section (*Example 6*), except that Employee B has a severance from employment on November 1, 2026. On that date, Employee B's unpaid loan balance is offset against the account balance on distribution.

(B) The plan loan offset amount is not a qualified plan loan offset amount. Although the offset occurred within 12 months after Employee B severed from employment, the plan loan does not meet the requirement in paragraph (g)(3)(ii)(B) of this section (that the plan loan meet the requirements of section 72(p)(2) immediately prior to Employee B's severance from employment). Instead, the loan was taxable on September 30, 2026 (prior to Employee B's severance from employment on November 1, 2026), because of the failure to meet the level amortization requirement in section 72(p)(2)(C). Accordingly, Employee B may roll over the plan loan offset amount to an eligible retirement plan within the 60-day period provided in section 402(c)(3)(A) (rather than within the period that ends on Employee B's tax filing due date (including extensions) for the taxable year in which the offset occurs).

(h) *Qualified plan distributed annuity contract—*

- (1) *Definition of a qualified plan distributed annuity contract.* A qualified plan distributed annuity contract is an annuity contract purchased for a participant, and distributed to the participant, by a qualified plan.
- (2) *Treatment of amounts paid as eligible rollover distributions.* Amounts paid under a qualified plan distributed annuity contract are payments of the balance to the credit of the employee for purposes of section 402(c) and are eligible rollover distributions if they otherwise qualify. Thus, for example, if the employee surrenders the contract for a single sum payment of its cash surrender value, the payment would be an eligible rollover distribution to the extent it is not a required minimum distribution under section 401(a)(9). This rule applies even if the annuity contract is distributed in connection with a plan termination. See §1.401(a)(31)-1, Q&A-17 and §31.3405(c)-1, Q&A-13 of this chapter concerning the direct rollover requirements and 20-percent withholding requirements, respectively, that apply to eligible rollover distributions from such an annuity contract.

(i) [Reserved]

(j) *Treatment of distributions to beneficiary—*

(1) *Spousal distributee—*

- (i) *In general.* Pursuant to section 402(c)(9), if any distribution attributable to an employee is paid to the employee's surviving spouse, section 402(c) applies to the distribution in the same manner as if the spouse were the employee. The same rule applies if any distribution attributable to an employee is paid in accordance with a qualified domestic relations order (as defined in section 414(p)) (QDRO) to the employee's spouse or former spouse who is an alternate payee. Therefore, a distribution to the surviving spouse of an employee (or to a spouse or former spouse who is an alternate payee under a QDRO), including a distribution of ancillary death benefits attributable to the employee, is an eligible rollover distribution if it would be described in paragraph (c) of this section had it been paid to the employee. For this purpose, the amount excluded from the definition of eligible rollover distribution under paragraph (c)(2)(ii) of this section as a required minimum distribution is determined under the rules of paragraph (j)(3) of this section (or paragraph (j)(4) of this section, if applicable).
- (ii) *Rollovers to qualified plans must be in capacity of employee.* If a surviving spouse rolls over a distribution to a qualified plan described in paragraph (a)(1)(iii)(B)(2) of this section or to an eligible deferred compensation plan

described in section 457(b) that is maintained by an employer described in section 457(e)(1)(A), then, with respect to the amount rolled over, that amount is treated as the spouse's own interest under the receiving plan and not the interest of the decedent under the distributing plan. Thus, for example, in determining the required minimum distribution from the receiving plan with respect to the amount rolled over, distributions must satisfy section 401(a)(9)(A) and not section 401(a)(9)(B).

**(2) *Non-spousal distributee*—**

- (i) *Eligibility for rollover.* A distributee other than the employee or the employee's surviving spouse (or a spouse or former spouse who is an alternate payee under a QDRO) is not permitted to roll over a distribution from a qualified plan. Therefore, a distribution to a non-spousal distributee does not constitute an eligible rollover distribution under section 402(c)(4).
- (ii) *Direct transfer permitted.* Although a non-spousal distributee may not roll over a distribution, pursuant to section 402(c)(11), if the distributee is a designated beneficiary (as determined under §1.401(a)(9)-4) who is not described in paragraph (j)(1) of this section and the distribution would be an eligible rollover distribution had it been paid to the employee, then the distributee may elect that the distribution be made in the form of a direct trustee-to-trustee transfer to an IRA established for the purpose of receiving that distribution. If a direct trustee-to-trustee transfer is made pursuant to section 402(c)(11) then--
  - (A) The transfer is treated as an eligible rollover distribution;
  - (B) The IRA is an inherited IRA described in section 408(d)(3)(ii); and
  - (C) Section 401(a)(9)(B) (other than section 401(a)(9)(B)(iv)) will apply to the IRA.
- (iii) *Applicability to see-through trusts.* If a distributee described in paragraph (j)(2)(ii) of this section is a see-through trust described in §1.401(a)(9)-4(f)(1)(i), then the beneficiaries of the trust that are treated as designated beneficiaries under §1.401(a)(9)-4(f)(3) are also treated as designated beneficiaries for purposes of section 402(c)(11)(A).
- (iv) *Applicability of withholding rules.* An amount that could have been transferred to a beneficiary IRA in accordance with section 402(c)(11), but instead, was paid directly to a non-spouse beneficiary, is treated as an eligible rollover distribution for purposes of section 3405(c). Thus, 20-percent withholding

under section 3405(c) applies to a distribution made directly to a non-spouse beneficiary.

(3) *Determination of amounts that constitute required minimum distributions for distributions to beneficiaries—*

(i) *In general—*

(A) *First portion of a distribution is treated as a required minimum distribution.*

If a minimum distribution is required to be made to a beneficiary in a calendar year, then the amounts distributed during that calendar year are treated as required minimum distributions under section 401(a)(9), to the extent that the total required minimum distribution under section 401(a)(9) for the calendar year has not been satisfied. Accordingly, those amounts are not eligible rollover distributions. If the employee dies before the employee's required beginning date (within the meaning of §1.401(a)(9)-2(b)), then no amount is a required minimum distribution for the year in which the employee dies.

(B) *Determination of required minimum distribution based on distribution method.* Except as otherwise provided in paragraphs (j)(3)(ii) and (4) of this section, if an employee dies before the employee's required beginning date, then the amount that is not an eligible rollover distribution because it is a required minimum distribution for the calendar year is determined under paragraph (j)(3)(i)(C), (D), or (E) of this section, whichever applies to the beneficiary. See §1.401(a)(9)-3(b)(4) and (c)(5) to determine which rule applies. If an employee dies on or after the employee's required beginning date, then the amount that is not an eligible rollover distribution because it is a required minimum distribution for a calendar year is determined under paragraph (j)(3)(i)(F) of this section.

(C) *Five-year rule in the case of death before required beginning date.* If the 5-year rule described in §1.401(a)(9)-3(b)(2) or (c)(2) applies to the beneficiary, then no amount is required to be distributed until the end of the calendar year that includes the fifth anniversary of the date of the employee's death. In that year, the entire amount to which the beneficiary is entitled under the plan must be distributed, and because it is a required minimum distribution, it is not an eligible rollover distribution. Thus, if the 5-year rule applies with respect to a designated beneficiary, then any

distribution made before the calendar year that includes the fifth anniversary of the date of the employee's death is eligible for rollover if it otherwise meets the requirements of this section.

(D) *Ten-year rule in the case of death before required beginning date.* If the 10-year rule described in §1.401(a)(9)-3(c)(3) applies to the beneficiary, then no amount is required to be distributed until the end of the calendar year that includes the tenth anniversary of the date of the employee's death. In that year, the entire amount to which the beneficiary is entitled under the plan must be distributed, and because it is treated as a required minimum distribution, it is not an eligible rollover distribution. Thus, if the 10-year rule applies with respect to a designated beneficiary, then any distribution made before the calendar year that includes the tenth anniversary of the date of the employee's death is eligible for rollover if it otherwise meets the requirements of this section.

(E) *Life expectancy rule.* If the life expectancy rule described in §1.401(a)(9)-3(c)(4) (or, in the case of a defined benefit plan, the annuity payment rule described in §1.401(a)(9)-3(b)(3)) applies to the designated beneficiary, then, in the first distribution calendar year for the beneficiary (as defined in §1.401(a)(9)-5(a)(2)(iii)) and in each subsequent calendar year, the amount treated as a required minimum distribution and not eligible to be rolled over is determined in accordance in with §1.401(a)(9)-5(d) and (e) (or, in the case of a defined benefit plan, §1.401(a)(9)-6).

(F) *Employee dies on or after required beginning date.* If the employee dies on or after the employee's required beginning date, then, in the calendar year of the employee's death, the amount treated as a required minimum distribution and not eligible to be rolled over is determined in accordance with §1.401(a)(9)-5(c) (or, in the case of a defined benefit plan, §1.401(a)(9)-6). For each subsequent calendar year, the amount treated as a required minimum distribution and not eligible to be rolled over is determined in accordance with §1.401(a)(9)-5(d) and (e) (or, in the case of a defined benefit plan, §1.401(a)(9)-6).

(ii) *Exception allowing beneficiary to change distribution method.* If the 5-year rule or 10-year rule described in §1.401(a)(9)-3(b)(2), (c)(2) or (c)(3) applies to a designated beneficiary under the plan, and the eligible designated beneficiary is using the exception under §1.408-8(d)(2)(ii) to switch to the use of the life expectancy rule under the IRA to which the distribution is rolled over or

transferred, then the designated beneficiary must determine the portion of the distribution that is a required minimum distribution that is not eligible for rollover using the life expectancy rule described in §1.401(a)(9)-3(c)(4) (or, in the case of a defined benefit plan, the annuity payment rule described in §1.401(a)(9)-3(b)(3)).

(4) *Special rule applicable to a spouse beneficiary—*

(i) *In general.* This paragraph (j)(4) provides a special rule relating to the determination of amounts treated as a required minimum distribution for distributions to an employee's surviving spouse to whom the 10-year rule described in §1.401(a)(9)-3(c)(3) applies. This rule, which treats a portion of a distribution made before the last year of the 10-year period as a required minimum distribution, applies if--

(A) The distribution is made in or after the calendar year the surviving spouse attains the applicable age described in §1.401(a)(9)-2(b)(2); and

(B) The surviving spouse rolls over a portion of that distribution to an eligible retirement plan under which the surviving spouse is not treated as the beneficiary of the employee.

(ii) *Catch-up of missed required minimum distributions.* If this paragraph (j)(4) applies to a distribution then, notwithstanding paragraph (j)(3)(i)(D) of this section, the portion of the distribution that is treated as a required minimum distribution, and thus is not an eligible rollover distribution, is the excess (if any) of--

(A) The sum of the hypothetical required minimum distributions determined under paragraph (j)(4)(iii) of this section for each year during the catch-up period with respect to that distribution (determined under paragraph (j)(4)(v) of this section), over

(B) The actual distributions made to the surviving spouse during those calendar years (other than the calendar year in which that distribution is made).

(iii) *Calculation of hypothetical required minimum distributions for the catch-up period.* This paragraph (j)(4)(iii) provides rules for determining the calculation of the hypothetical required minimum distribution for each calendar year during the catch-up period with respect to a distribution (determination year). The hypothetical required minimum distribution for a determination year is the amount that would have been the required minimum distribution for that year

had the election under §1.401(a)(9)-5(g)(3)(i) been in effect for the spouse. Thus, the hypothetical required minimum distribution is calculated using the applicable denominator determined under §1.401(a)(9)-5(g)(3). However, in lieu of the account balance that would otherwise be used to determine the required minimum distribution for the determination year, an adjusted account balance is used for this purpose. The adjusted account balance for a determination year is calculated by reducing the account balance that would otherwise be used to determine the required minimum distribution for the calendar year in which the distribution is made by the excess (if any) of--

(A) The sum of the hypothetical required minimum distributions determined under this paragraph (j)(4)(iii) beginning with the first applicable year and ending with the calendar year preceding the determination year; over

(B) The actual distributions made to the surviving spouse during those calendar years.

(iv) *Definition of first applicable year.* The first applicable year is the later of--

(A) The calendar year in which the surviving spouse attains the applicable age, and

(B) The calendar year in which the employee would have attained the applicable age.

(v) *Definition of catch-up period.* The catch-up period with respect to a distribution is the period that--

(A) Begins with first applicable year, and

(B) Ends in the calendar year in which the distribution is made.

(vi) *Reasonable assumptions by plan administrator.* For purposes of section 402(f)(2)(A), a plan administrator is permitted to assume that a surviving spouse to whom this paragraph (j)(4) applies will roll over (to the extent permitted under the rules of this paragraph (j)(4)) the entire distribution to an eligible retirement plan under which that spouse is not treated as the beneficiary of the employee. Thus, a plan administrator may assume that the catch-up of missed required minimum distributions described in paragraph (j)(4)(ii) of this section applies to the distribution and treat only the remaining portion of the distribution as an eligible rollover distribution for purposes of sections 401(a)(31) and 3405(c). See paragraph (k)(2) of this section concerning the effect of this assumption for purposes of section 402(c).

(vii) [Reserved]

(k) *Other rules—*

(1) *Designation must be irrevocable—*

(i) *Indirect rollover.* In order for a contribution of an eligible rollover distribution to an individual retirement plan to constitute a rollover and, thus, to qualify for exclusion from gross income under section 402(c), a distributee must elect, at the time the contribution is made, to treat the contribution as a rollover contribution. An election is made by designating to the trustee, issuer, or custodian of the eligible retirement plan that the contribution is a rollover contribution. This election is irrevocable. Once any portion of an eligible rollover distribution has been contributed to an individual retirement plan and designated as a rollover distribution, taxation of the withdrawal of the contribution from the individual retirement plan is determined under section 408(d) rather than under section 402 or 403. Therefore, the eligible rollover distribution is not eligible for capital gains treatment, five-year or ten-year averaging, or the exclusion from gross income for net unrealized appreciation on employer stock.

(ii) *Direct rollover.* If an eligible rollover distribution is paid to an eligible retirement plan in a direct rollover at the election of the distributee, the distributee is deemed to have irrevocably designated that the direct rollover is a rollover contribution.

(2) *Use of actual minimum required distribution calculation.* The portion of any distribution that an employee (or spousal distributee) may roll over as an eligible rollover distribution under section 402(c) is determined based on the actual application of section 402 and other relevant provisions of the Internal Revenue Code. The actual application of these provisions may produce different results than any assumption described in paragraph (j)(4)(vi) of this section or §1.401(a)(31)-1, Q&A-18, that is used by the plan administrator. Thus, for example, if the plan administrator assumes there is no designated beneficiary and calculates the portion of a distribution that is a required minimum distribution using the Uniform Lifetime Table under §1.401(a)(9)-9(c), but the portion of the distribution that is actually a required minimum distribution and thus not an eligible rollover distribution is determined by taking into account a spousal designated beneficiary who is more than 10 years younger than the employee, then a greater portion of the distribution is actually an eligible rollover distribution and the distributee may roll over the additional amount.

(3) *Plan rollover not counted towards one rollover per year limitation.* A distribution from a qualified plan that is rolled over to an individual retirement account or individual retirement annuity is not treated for purposes of section 408(d)(3)(B) as an amount received by an individual from an individual retirement account or individual retirement annuity that is not includible in gross income because of the application of section 408(d)(3).