

Treasury Regulation 1.408A-10

Coordination between designated Roth accounts and Roth IRAs

Q-1. Can an eligible rollover distribution, within the meaning of section 402(c)(4), from a designated Roth account, as defined in A-1 of §1.402A-1, be rolled over to a Roth IRA?

A-1. Yes. An eligible rollover distribution, within the meaning of section 402(c)(4), from a designated Roth account may be rolled over to a Roth IRA. For purposes of this section, a designated Roth account means a designated Roth account as defined in A-1 of §1.402A-1.

Q-2. Can an eligible rollover distribution from a designated Roth account be rolled over to a Roth IRA even if the distributee is not otherwise eligible to make regular or conversion contributions to a Roth IRA?

A-2. Yes. An individual may establish a Roth IRA and roll over an eligible rollover distribution from a designated Roth account to that Roth IRA even if such individual is not eligible to make regular contributions or conversion contributions (as described in section 408A(c)(2) and (d)(3), respectively) because of the modified adjusted gross income limits in section 408A(b)(3).

Q-3. For purposes of the ordering rules on distributions from Roth IRAs, what portion of a distribution from a rollover contribution from a designated Roth account is treated as contributions?

A-3. (a) Under section 408A(d)(4), distributions from Roth IRAs are deemed to consist first of regular contributions, then of conversion contributions, and finally, of earnings. For purposes of section 408A(d)(4), the amount of a rollover contribution that is treated as a regular contribution is the portion of the distribution that is treated as investment in the contract under A-6 of §1.402A-1, and the remainder of the rollover contribution is treated as earnings. Thus, the entire amount of any qualified distribution from a designated Roth account that is rolled over into a Roth IRA is treated as a regular contribution to the Roth IRA. Accordingly, a subsequent distribution from the Roth IRA in the amount of that rollover contribution is not includible in gross income under the rules of A-8 of §1.408A-6.

(b) If the entire account balance of a designated Roth account is distributed to an employee and only a portion of the distribution is rolled over to a Roth IRA within the 60-day period described in section 402(c)(3), and at the time of the distribution, the investment in the contract exceeds the balance in the designated Roth account, the portion of investment in the contract that exceeds the amount used to determine the taxable amount of the distribution is treated as a regular contribution for purposes of section 408A(d)(4).

Q-4. In the case of a rollover from a designated Roth account to a Roth IRA, when does the 5-taxable-year period (described in section 408A(d)(2)(B) and A-1 of §1.408A-6) for determining qualified distributions from a Roth IRA begin?

A-4. (a) The 5-taxable-year period for determining a qualified distribution from a Roth IRA (described in section 408A(d)(2)(B) and A-1 of §1.408A-6) begins with the earlier of the taxable year described in A-2 of §1.408A-6 or the taxable year in which a rollover contribution from a designated Roth account is made to a Roth IRA. The 5-taxable-year period described in this A-4 and the 5-taxable-year period of participation described in A-4 of §1.402A-1 are determined independently.

(b) The following examples illustrate the application of this A-4:

Example 1. Employee D began making designated Roth contributions under his employer's 401(k) plan in 2006. Employee D, who is over age 59½, takes a distribution from D's designated Roth account in 2008, prior to the end of the 5-taxable-year period of participation used to determine qualified distributions from a designated Roth account. The distribution is an eligible rollover distribution and D rolls it over in accordance with sections 402(c) and 402A(c)(3) to D's Roth IRA, which was established in 2003. Any subsequent distribution from the Roth IRA of the amount rolled in, plus earnings thereon, would not be includible in gross income (because it would be a qualified distribution within the meaning of section 408A(d)(2)).

Example 2. The facts are the same as in *Example 1*, except that the Roth IRA is D's first Roth IRA and is established with the rollover in 2008, which is the only contribution made to the Roth IRA. If a distribution is made from the Roth IRA prior to the end of the 5-taxable-year period used to determine qualified distributions from a Roth IRA (which begins in 2008, the year of the rollover which established the Roth IRA) the distribution would not be a qualified distribution within the meaning of section 408A(d)(2), and any amount of the distribution that exceeded the portion of the rollover contribution that consisted of investment in the contract is includible in D's gross income.

Example 3. The facts are the same as in *Example 2*, except that the distribution from the designated Roth account and the rollover to the Roth IRA occur in 2011 (after the end of the 5-taxable-year period of participation used to determine qualified distributions from a designated Roth account). If a distribution is made from the Roth IRA prior to the expiration of the 5-taxable-year period used to determine qualified distributions from a Roth IRA, the distribution would not be a qualified distribution within the meaning of section 408A(d)(2), and any amount of the distribution that exceeded the amount rolled in is includible in D's gross income.

Q-5. Can amounts distributed from a Roth IRA be rolled over to a designated Roth account as defined in A-1 of §1.402A-1?

A-5. No. Amounts distributed from a Roth IRA may be rolled over or transferred only to another Roth IRA and are not permitted to be rolled over to a designated Roth account under a section 401(a) or section 403(b) plan. The same rule applies even if all the amounts in the Roth IRA are attributable to a rollover distribution from a designated Roth account in a plan.

Q-6. When is this §1.408A-10 applicable?

A-6. The rules of this §1.408A-10 apply for taxable years beginning on or after January 1, 2006.

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