Treasury Regulation 54.4974-1
Excise tax on accumulations in qualified retirement plans

(a) I*mposition of excise tax —*

(1) *In general.* If the amount distributed to a payee under any qualified retirement plan or any eligible deferred compensation plan (as defined in section 457(b)) for a calendar year is less than the required minimum distribution for that year, section 4974 imposes an excise tax on the payee for the taxable year beginning with or within the calendar year during which the amount is required to be distributed. Except as provided in paragraph (a)(2) of this section, the tax is equal to 25 percent of the amount by which the required minimum distribution for a calendar year exceeds the actual amount distributed during the calendar year.

(2) *Reduction of tax in certain cases —*

(i) *In general.* In the case of a taxpayer who satisfies this paragraph (a)(2), the tax described in paragraph (a)(1) of this section is equal to 10 percent (in lieu of 25 percent) of the amount by which the required minimum distribution for a calendar year exceeds the actual amount distributed during the calendar year.

(ii) *Eligible taxpayers.* This paragraph (a)(2) is satisfied if, by the last day of the correction window described in paragraph (a)(2)(iii) of this section, the taxpayer—

(A) Receives a corrective distribution from the applicable plan described in paragraph (a)(2)(iv) of this section of the amount by which the required minimum distribution for a calendar year exceeds the actual amount distributed during the calendar year from that plan; and

(B) Files a return reflecting the tax described in this paragraph (a).

(iii) *Correction window.* For purposes of paragraph (a)(2) of this section, the correction window ends on the earliest of—

(A) The date a notice of deficiency under section 6212 with respect to the tax imposed by section 4974(a) is mailed;

(B) The date on which the tax imposed by section 4974(a) is assessed; or

(C) The last day of the second taxable year that begins after the end of the taxable year in which the tax under section 4974(a) is imposed.

(iv) *Applicable plan.* If the minimum distribution was required to be paid from a particular qualified retirement plan or eligible deferred compensation plan, then the applicable plan is that particular qualified retirement plan or eligible deferred compensation plan. However, if the requirement to take a minimum distribution could have been satisfied by a payment from any one of a number of qualified retirement plans (such as an individual retirement account under section 408(a) or a section 403(b) plan), then the corrective distribution may be taken from any one of those qualified retirement plans.

(3) *Definition of required minimum distribution.* For purposes of section 4974, the term required minimum distribution means the minimum amount required to be distributed pursuant to section 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2), as the case may be. Except as otherwise provided in paragraph (f) of this section (which provides a special rule for amounts required to be distributed by an employee's, or an individual's, required beginning date), the required minimum distribution for a calendar year is the required minimum distribution amount required to be distributed during the calendar year.

(b) *Definition of qualified retirement plan.* For purposes of section 4974, each of the following is a qualified retirement plan—

(1) A plan described in section 401(a) that includes a trust exempt from tax under section 501(a);

(2) An annuity plan described in section 403(a);

(3) An annuity contract, custodial account, or retirement income account described in section 403(b);

(4) An individual retirement account described in section 408(a) (including a Roth IRA described in section 408A);

(5) An individual retirement annuity described in section 408(b) (including a Roth IRA described in section 408A); or

(6) Any other plan, contract, account, or annuity that, at any time, has been treated as a plan, account, or annuity described in paragraphs (b)(1) through (5) of this section but that no longer satisfies the applicable requirements for that treatment.

(c) Determination of required minimum distribution for individual accounts —

(1) *General rule.* Except as otherwise provided in this paragraph (c), if a payee's interest under a qualified retirement plan or any eligible deferred compensation plan is in the form of an individual account (and distribution of that account is not being made under an annuity contract purchased in accordance with § 1.401(a)(9)-5(a)(5) and § 1.401(a)(9)-6(d)), the amount of the required minimum distribution for any calendar year for purposes of section 4974 is the amount required to be distributed to that payee for that calendar year determined in accordance with § 1.401(a)(9)-5 as provided in the following (whichever applies)—

(i) Section 401(a)(9), §§ 1.401(a)(9)-1 through 1.401(a)(9)-5, and 1.401(a)(9)-7 through 1.401(a)(9)-9, in the case of a plan described in section 401(a) that includes a trust exempt under section 501(a) or an annuity plan described in section 403(a);

(ii) Section 403(b)(10) and § 1.403(b)-6(e) in the case of an annuity contract, custodial account, or retirement income account described in section 403(b);

(iii) Section 408(a)(6) or (b)(3) and § 1.408-8 in the case of an individual retirement account or annuity described in section 408(a) or (b); or

(iv) Section 457(d) and § 1.457-6(d) in the case of an eligible deferred compensation plan.

(2) *Distributions under 5-year rule or 10-year rule.* If an employee dies before the required beginning date and either § 1.401(a)(9)-3(c)(2) or (3) applies to the employee's beneficiary, there is no required minimum distribution until the end of the calendar year described in whichever of those paragraphs applies to the beneficiary (that is, the calendar year that includes the fifth anniversary or the tenth anniversary of the date of the employee's death, as applicable). The required minimum distribution due in that fifth or tenth calendar year is the employee's entire interest in the plan.

(3) *Default provisions.* Unless otherwise provided under the qualified retirement plan or eligible deferred compensation plan (or, if applicable, the governing instrument of the plan), the default provisions in § 1.401(a)(9)-3(c)(5)(i) apply in determining whether paragraph (c)(1) or (2) of this section applies.

(4) *Plans providing uniform required beginning date.* For purposes of this section, if the plan provides a uniform required beginning date for purposes of section 401(a)(9) for all employees in accordance with § 1.401(a)(9)-2(b)(4), then the required minimum distribution for each calendar year for an employee who is not a 5-percent owner is the lesser of the amount determined based on a required beginning date of April 1 of the calendar year following the calendar year in which the employee attains the applicable age or the amount determined based on the required beginning date under the plan. Thus, for example, if an employee who was not a 5-percent owner participated in a defined contribution plan with a uniform required beginning date (as described in the preceding sentence) and the employee died after the applicable age (but before April 1 of the calendar year following the calendar year in which the employee retired) without a designated beneficiary, then required minimum distributions for calendar years after the calendar year that includes the date of the employee's death are equal to the lesser of—

(i) The required minimum distribution determined by treating the employee as dying before the required beginning date (that is, the 5-year rule of § 1.401(a)(9)-3(c)(2)); or

(ii) The required minimum distribution determined by treating the employee as dying on or after the required beginning date (annual distributions over the employee's remaining life expectancy, as set forth in § 1.401(a)(9)-5(d)).

(d) Determination of required minimum distribution under a defined benefit plan or annuity —

(1) *General rule*. If a payee's interest in a qualified retirement plan or eligible deferred compensation plan is being distributed in the form of an annuity (either directly from the plan, in the case of a defined benefit plan, or under an annuity contract purchased from an insurance company), then the amount of the required minimum distribution for purposes of section 4974 depends on whether the annuity is a permissible annuity distribution option or an impermissible annuity distribution option. For this purpose—

(i) A permissible annuity distribution option is an annuity contract (or, in the case of annuity distributions from a defined benefit plan, a distribution option) that specifically provides for distributions that, if made as provided, would for every calendar year equal or exceed the minimum distribution amount required to be distributed to satisfy the applicable section enumerated in paragraph (b) of this section for that calendar year; and

(ii) An impermissible annuity distribution option is any other annuity distribution option.

(2) *Permissible annuity distribution option*. If the annuity contract (or, in the case of annuity distributions from a defined benefit plan, a distribution option) under which distributions to the payee are being made is a permissible annuity distribution option, then the required minimum distribution for a given calendar year for purposes of section 4974 equals the amount that the annuity contract (or distribution option) provides is to be distributed for that calendar year.

(3) Impermissible annuity distribution option —

(i) *General rule.* If the annuity contract (or, in the case of annuity distributions from a defined benefit plan, the distribution option) under which distributions to the payee are being made is an impermissible annuity distribution option, then the required minimum distribution for each calendar year for purposes of section 4974 is the amount that would be distributed under the applicable permissible annuity distribution option described in this paragraph (d)(3) (or the amount determined by the Commissioner if there is no option of this type). The determination of which permissible annuity distribution applies depends on whether distributions commenced before the death of the employee, whether the plan is a defined benefit or defined contribution plan, whether there is a designated beneficiary for purposes of section 401(a)(9), and whether the designated beneficiary is an eligible designated beneficiary under section 401(a)(9)(E)(ii). For this purpose, the determination of whether there is a designated beneficiary and whether that designated beneficiary is an eligible designated beneficiary is made in accordance with § 1.401(a)(9)-4, and the determination of which designated beneficiary's life is to be used in the case of multiple designated beneficiaries in made in accordance with § 1.401(a)(9)-5(f).

(ii) Defined benefit plan —

(A) *Benefits commence before employee dies.* If the plan under which distributions are being made is a defined benefit plan, benefits commence before the employee dies, and there is a designated beneficiary, then the applicable permissible annuity distribution option is the joint and survivor annuity option under the plan for the lives of the employee and the designated beneficiary that is a permissible annuity distribution option and that provides for the greatest level amount payable to the employee determined on an annual basis. If the plan does not provide an option described in the preceding sentence (or there is no designated beneficiary under the impermissible annuity distribution option), then the applicable permissible annuity distribution option is the life annuity option under the plan payable for the life of the employee in level amounts with no survivor benefit.

(B) *Employee dies before benefits commence.* If the plan under which distributions are being made is a defined benefit plan, the employee dies before benefits commence, there is a designated beneficiary, and the plan has a life annuity option payable for the life of the designated beneficiary in level amounts, then the applicable permissible annuity distribution option is that life annuity option. If there is no designated beneficiary, then the 5-year rule in section 401(a)(9)(B)(ii) applies in accordance with paragraph (d)(4)(i) of this section.

(iii) Defined contribution plan —

(A) *In general.* If the plan under which distributions are being made is a defined contribution plan and the impermissible annuity distribution option is an annuity contract purchased from an insurance company, then the applicable permissible annuity distribution option is the applicable annuity described in paragraph (d)(3)(iii)(B) or (C) of this section that could have been purchased with the portion of the employee's or individual's account that was used to purchase the annuity contract that is the impermissible annuity distribution option. The amount of the payments under that annuity contract are determined using the interest rate prescribed under section 7520 determined as of the date the contract was purchased, the ages of the annuitants on that date, and the mortality rates in § 1.401(a)(9)-9(e).

(B) *Benefits commence before employee dies.* If the plan under which distributions are being made is a defined contribution plan, the benefits commence before the employee dies, and there is a designated beneficiary who is an eligible designated beneficiary within the meaning of section 401(a)(9)(E)(ii), then the applicable annuity is the joint and survivor annuity option providing level annual payments for the lives of the employee and the designated beneficiary, under which the amount of the periodic payment that would have been payable to the survivor is the applicable percentage under the table in §1.401(a)(9)-6(b)(2) (taking into account the rules of § 1.401(a)(9)-6(k)(2)) of the amount of the periodic payment that would have been payable to the employee or individual. If there is no designated beneficiary, or if the designated beneficiary is not an eligible designated beneficiary under the impermissible distribution option, then the annuity described in this paragraph (d)(3)(iii)(B) is a life annuity for the life of the employee with no survivor benefit that provides level annual payments.

(C) *Employee dies before benefits commence*. If the plan under which distributions are being made is a defined contribution plan, the employee dies before benefits commence, and there is an eligible designated beneficiary under the impermissible annuity distribution option, then the applicable annuity is a life annuity for the life of the designated beneficiary that provides level annual payments and that would have been a permissible annuity distribution option. If there is no designated beneficiary, then section 401(a)(9)(B)(ii) applies in accordance with paragraph (d)(4)(i) of this section. If the designated beneficiary is not an eligible designated beneficiary, then section 401(a)(9)(B)(ii) applies in accordance with paragraph (d)(4)(ii) of this section.

(4) *Application of section 401(a)(9)(B)(ii)* —

(i) *Application of 5-year rule.* If the 5-year rule in section 401(a)(9)(B)(ii) applies to the distribution to the payee under the contract (or distribution option), then no amount is required to be distributed to satisfy the applicable enumerated section in paragraph (b) of this section until the end of the calendar year that includes the fifth anniversary of the date of the employee's death. For the calendar year that includes the fifth anniversary of the date of the employee's death, the amount required to be distributed to satisfy the applicable enumerated section is the payee's entire remaining interest in the annuity contract (or under the plan in the case of distributions from a defined benefit plan). However, see § 1.401(a)(9)-6(j) for rules regarding payments that are not permitted under section 436.

(ii) *Application of 10-year rule.* If the employee dies before distribution of the employee's entire interest, section 401(a)(9)(H) applies, and the designated beneficiary of the remaining interest is not an eligible designated beneficiary, then no amount is required to be distributed to satisfy the applicable enumerated section in paragraph (b) of this section until the end of the calendar year that includes the tenth anniversary of the date of the employee's death. For the calendar year that includes the tenth anniversary of the date of the employee's death, the amount required to be distributed to satisfy the applicable enumerated section is the payee's entire remaining interest in the annuity contract.

(5) *Plans providing uniform required beginning date.* Rules similar to the rules of paragraph (c)(4) of this section (relating to plans that have adopted a uniform required beginning date) apply in the case of a defined benefit plan.

(e) *Distribution of remaining benefit after deadline for required distribution.* If there is any remaining benefit with respect to an employee (or IRA owner) after the calendar year in which the entire remaining benefit is required to be distributed, the required minimum distribution for each calendar year subsequent to that calendar year is the entire remaining benefit. Thus, for example, if the designated beneficiary of the employee is not an eligible designated beneficiary, then, pursuant to § 1.401(a)(9)-5(e)(2), the entire interest of the employee must be distributed no later than the end of the calendar year that includes the tenth anniversary of the date of the employee's death, and the required minimum distribution for that calendar year and each subsequent calendar year is the remaining portion of the employee's interest in the plan.

(f) *Excise tax for first distribution calendar year*. If the amount not paid is an amount required to be paid by April 1 of a calendar year that includes the employee's required beginning date, the missed distribution is a required minimum distribution for the previous calendar year (that is, for the employee's or the individual's first distribution calendar year as determined in accordance with § 1.401(a)(9)-5(a)(2)(ii)). However, the excise tax under section 4974 is calculated with respect to the calendar year that includes the last day by which the amount is required to be distributed (that is, the calendar year that includes the employee's or individual's required beginning date) even though the preceding calendar year is the calendar year for which the amount is required to be distributed. There is also a required minimum distribution for the calendar year that includes the employee's or individual's required beginning date, and that distribution is also required to be made during the calendar year that includes the employee's or individual's required beginning date.

(g) *Waiver of excise tax* —

(1) *General rule.* The tax under paragraph (a) of this section may be waived if the payee establishes to the satisfaction of the Commissioner that—

(i) The failure to distribute the required minimum distribution described in this section was due to reasonable error; and

(ii) Reasonable steps are being taken to remedy the failure.

(2) *Automatic waiver after election to distribute within 10 years of employee's death.* Unless the Commissioner determines otherwise, the tax under paragraph (a) of this section is waived automatically if—

(i) The employee's or individual's death is before the employee's or individual's required beginning date;

(ii) The payee is an individual—

(A) Who is an eligible designated beneficiary (as defined in § 1.401(a)(9)-4(e));

(B) Whose required minimum distribution amount for a calendar year is determined under the life expectancy rule described in § 1.401(a)(9)-3(c)(4); and

(C) Who did not make an affirmative election to have the life expectancy rule apply as described in § 1.401(a)(9)-3(c)(5)(iii);

(iii) The payee fails to satisfy the minimum distribution requirement; and

(iv) The payee elects the 10-year rule described in § 1.401(a)(9)-3(c)(3) by the end of the ninth calendar year following the calendar year of the employee's death.

(3) *Automatic waiver for failure to take required minimum distribution for the year of death.* Unless the Commissioner determines otherwise, the tax under paragraph (a) of this section is waived automatically if—

(i) A distribution is required to be made to an individual under § 1.401(a)(9)-3 or § 1.401(a)(9)-5 in a calendar year;

(ii) The individual who was required to take the distribution described in paragraph (g)(3)(i) of this section died in that calendar year without satisfying that distribution requirement; and

(iii) The beneficiary of the individual described in paragraph (g)(3)(ii) of this section takes a corrective distribution in the amount needed to satisfy that distribution requirement no later than the tax filing deadline (including extensions thereof) for the taxable year of that beneficiary that begins with or within that calendar year (or, if later, the last day of the calendar year following that calendar year).

(h) *Applicability date*. This section applies for taxable years beginning on or after January 1, 2025. For earlier taxable years, the rules of 26 CFR 54.4974-2 (as it appeared in the April 1, 2023, edition of 26 CFR part 54) apply.

[T.D. 7714, 45 FR 52799, Aug. 8, 1980, as amended by T.D. 10001, 89 FR 58951, July 19, 2024]