Required Minimum Distribution Upon Attainment Of Age 70½ (IRC §401(a)(9)(A))

Proposed regulations[1] issued in January of 2001 changed the timing of Required Minimum Distributions (RMDs). Plan documents can provide that the date by which distribution must commence for non-5% owners can either be the same as 5% owners, or can be the April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½ or (2) the calendar year in which the employee retires. For 5% owners, distributions must begin by the April 1 of the calendar year following the calendar year in which the employee attains age 70½, even if still employed. RMDs are not subject to 20% mandatory tax withholding and are not eligible for rollover.

If the participant does not take the RMD by the required date, the IRS could assess a 50% excise tax against the participant. In addition, the tax status of the plan could be adversely affected for failure to make a RMD on or before the due date.

If distributions from a defined benefit plan are not made in the form of an annuity, then the participant's benefit is subject to the rules for individual account plans.[2]

In summary, the 2001 proposed regulations provide new, simplified methods for calculating the minimum distribution. The new rules are effective for minimum distributions that must be paid in 2002 and later.[3] The new rules decrease the minimum distribution amount during a participant's life for the majority of participants, compared with rules previously in effect. Any change in the final rules which is more restrictive than the proposed rules will not be applied retroactively.[4]

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1. Prop. Reg. 1.401(a)(9)-6, A-1(a), and Prop. Reg. 1.401(a)(9)-1, A-2
2. Prop. Treas. Reg. 1.401(a)(9)-6, A-1(e)
3. For details as to what comprises an acceptable annuity option, refer to Prop. Reg. 54.4974-2, A-4.
4. Refer to REG-130477-00, REG-130481-00, 66 Fed. Reg. 3928 (1/17/2001)