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26 C.F.R. § 1.401(a)(9)-2

Treas. Reg. § 1.401(a)(9)-2

CODE OF FEDERAL REGULATIONS
 TITLE 26--INTERNAL REVENUE
 CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
 SUBCHAPTER A--INCOME TAX
 PART 1--INCOME TAXES
 NORMAL TAXES AND SURTAXES
 DEFERRED COMPENSATION, ETC.
 PENSION, PROFIT-SHARING, STOCK BONUS PLANS, ETC.
 Current through November 10, 2004; 69 FR 65366

§ 1.401(a)(9)-2 Distributions commencing during an employee's lifetime.

Q-1. In the case of distributions commencing during an employee's lifetime, how must the employee's entire interest be distributed in order to satisfy section 401(a)(9)(A)?

A-1. (a) In order to satisfy section 401(a)(9)(A), the entire interest of each employee must be distributed to such employee not later than the required beginning date, or must be distributed, beginning not later than the required beginning date, over the life of the employee or joint lives of the employee and a designated beneficiary or over a period not extending beyond the life expectancy of the employee or the joint life and last survivor expectancy of the employee and the designated beneficiary.

(b) Section 401(a)(9)(G) provides that lifetime distributions must satisfy the incidental death benefit requirements.

(c) The amount required to be distributed for each calendar year in order to satisfy section 401(a)(9)(A) and (G) generally depends on whether a distribution is in the form of distributions under a defined contribution plan or annuity payments under a defined benefit plan or under an annuity contract. For the method of determining the required minimum distribution in accordance with section 401(a)(9)(A) and (G) from an individual account under a defined contribution plan, see § 1.401(a)(9)-5. For the method of determining the required minimum distribution in accordance with section 401(a)(9)(A) and (G) in the case of annuity payments from a defined benefit plan or an annuity contract, see § 1.401(a)(9)-6.

Q-2. For purposes of section 401(a)(9)(C), what does the term required beginning date mean?

A-2. (a) Except as provided in paragraph (b) of this A-2 with respect to a 5-percent owner, as defined in paragraph (c) of this A-2, the term required beginning date means April 1 of the calendar year following the later of the calendar year in which the employee attains age 70 1/2 or the calendar year in which the employee retires from employment with the employer maintaining the plan.

(b) In the case of an employee who is a 5-percent owner, the term required beginning date means April 1 of the calendar year following the calendar year in which the employee attains age 70 1/2.

(c) For purposes of section 401(a)(9), a 5-percent owner is an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70 1/2.

(d) Paragraph (b) of this A-2 does not apply in the case of a governmental plan (within the meaning of section 414(d)) or a church plan. For purposes of this paragraph, the term church plan means a plan maintained by a church for church employees, and the term church means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).

(e) A plan is permitted to provide that the required beginning date for purposes of section 401(a)(9) for all employees is April 1 of the calendar year following the calendar year in which an employee attains age 70 1/2 regardless of whether the employee is a 5-percent owner.

Q-3. When does an employee attain age 70 1/2?

A-3. An employee attains age 70 1/2 as of the date six calendar months after the 70th anniversary of the employee's birth. For example, if an employee's date of birth was June 30, 1933, the 70th anniversary of such employee's birth is June 30, 2003. Such employee attains age 70 1/2 on December 30, 2003.

Consequently, if the employee is a 5-percent owner or retired, such employee's required beginning date is April 1, 2004. However, if the employee's date of birth was July 1, 1933, the 70th anniversary of such employee's birth would be July 1, 2003. Such employee would then attain age 70 1/2 on January 1, 2004 and such employee's required beginning date would be April 1, 2005.

Q-4. Must distributions made before the employee's required beginning date satisfy section 401(a)(9)?

A-4. Lifetime distributions made before the employee's required beginning date for calendar years before the employee's first distribution calendar year, as defined in A-1(b) of § 1.401(a)(9)-5, need not be made in accordance with section 401(a)(9). However, if distributions commence before the employee's required beginning date under a particular distribution option, such as in the form of an annuity, the distribution option fails to satisfy section 401(a)(9) at the time distributions commence if, under terms of the particular distribution option, distributions to be made for the employee's first distribution calendar year or any subsequent distribution calendar year will fail to satisfy section 401(a)(9).

Q-5. If distributions have begun to an employee during the employee's lifetime (in accordance with section 401(a)(9)(A)(ii)), how must distributions be made after an employee's death?

A-5. Section 401(a)(9)(B)(i) provides that if the distribution of the employee's interest has begun in accordance with section 401(a)(9)(A)(ii) and the employee dies before his entire interest has been distributed to him, the remaining portion of such interest must be distributed at least as rapidly as under the distribution method being used under section 401(a)(9)(A)(ii) as of the date of his death. The amount required to be distributed for each distribution calendar year following the calendar year of death generally depends on whether a distribution is in the form of distributions from an individual account under a defined contribution plan or annuity payments under a defined benefit plan. For the method of determining the required minimum distribution in accordance with section 401(a)(9)(B)(i) from an individual account, see § 1.401(a)(9)-5. In the case of annuity payments from a defined benefit plan or an annuity contract, see § 1.401(a)(9)-6.

Q-6. For purposes of section 401(a)(9)(B), when are distributions considered to have begun to the employee in accordance with section 401(a)(9)(A)(ii)?

A-6. (a) General rule. Except as otherwise provided in A-10 of § 1.401(a)(9)-6, distributions are not treated as having begun to the employee in accordance with section 401(a)(9)(A)(ii) until the employee's required beginning date, without regard to whether payments have been made before that date. Thus, section 401(a)(9)(B)(i) only applies if an employee dies on or after the employee's required beginning date. For example, if employee A retires in 2003, the calendar year A attains age 65 1/2, and begins receiving installment distributions from a profit-sharing plan over a period not exceeding the joint life and last survivor expectancy of A and A's spouse, benefits are not treated as having begun in accordance with section 401(a)(9)(A)(ii) until April 1, 2009 (the April 1 following the calendar year in which A attains age 70 1/2). Consequently, if A dies before April 1, 2009 (A's required beginning date), distributions after A's death must be made in accordance with section 401(a)(9)(B)(ii) or (iii) and (iv) and § 1.401(a)(9)-3, and not section 401(a)(9)(B)(i). This is the case without regard to whether the plan has distributed the minimum distribution for the first distribution calendar year (as defined in A-1(b) of § 1.401(a)(9)-5) before A's death.

(b) If a plan provides, in accordance with A-2(e) of this section, that the required beginning date for purposes of section 401(a)(9) for all employees is April 1 of the calendar year following the calendar year in which an employee attains age 70 1/2, an employee who dies on or after the required beginning date determined under the plan terms is treated as dying after the employee's distributions have begun for purposes of this A-6 even though the employee dies before the April 1 following the calendar year in which the employee retires.

[[T.D. 8987](#), [67 FR 18995](#), April 17, 2002; [T.D. 9130](#), [69 FR 33293](#), June 15, 2004]

26 C. F. R. § 1.401(a)(9)-2

26 CFR § 1.401(a)(9)-2

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