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Final Regulations for Retirement Plan Distributions
April 17, 2002

===== FULL TEXT =====

[4830-01-P]

DEPARTMENT OF TREASURY

Internal Revenue Service (IRS)

26 CFR Parts 1, 54, and 602

[TD 8987]

RIN 1545-AY69, 1545-AY70

[1] AGENCY: Internal Revenue Service (IRS), Treasury.

[2] ACTION: Final and temporary regulations.

[3] SUMMARY: This document contains final and temporary regulations relating to required minimum distributions from qualified plans, individual retirement plans, deferred compensation plans under section 457, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts. These

regulations will provide the public with guidance necessary to comply with the law and will affect administrators of, participants in, and beneficiaries of qualified plans; institutions that sponsor and individuals who administer individual retirement plans, individuals who use individual retirement plans for retirement income, and beneficiaries of individual retirement plans; and employees for whom amounts are contributed to section 403(b) annuity contracts, custodial accounts, or retirement income accounts and beneficiaries of such contracts and accounts. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of the **Federal Register**.

[4] EFFECTIVE DATE: These regulations are effective January 1, 2003.

[5] FOR FURTHER INFORMATION CONTACT: Cathy A. Vohs, 202-622-6090 (Not a toll free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

[6] The collections of information contained in these final regulations have been reviewed and approved by the **Office of Management and Budget** in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-0996, in conjunction with the notice of proposed rulemaking published on July 27, 1987, 52 FR 28070, REG-EE-113-82, Required Distributions From Qualified Plans and Individual Retirement Plans, under control number 1545-1466 for Third-Party Disclosure Requirements in IRS Regulations, and control number 1545-1573, in conjunction with the notice of proposed rulemaking published on December 30, 1997, 62 FR 67780, REG-209463- 82, Required Distributions from Qualified Plans and Individual Retirement Plans. Responses to the collections of information under control numbers 1545-0996 and 1545-1466 are mandatory. Responses to the collection of information under control number 1545-1573 are

required to obtain the benefit of a trust being treated as a designated beneficiary under a retirement plan.

[7] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the **Office of Management and Budget**.

[8] The estimated annual burden per respondent under control number 1545-0996 is 1 hour.

[9] The estimated annual burden per respondent under control number 1545-1466 is 9 minutes.

[10] The estimated annual burden per respondent under control number 1545-1573 is 20 minutes.

[11] Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S Washington, DC 20224, and to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

[12] Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

[13] This document contains amendments to the Income Tax Regulations (26 CFR Part 1) and to the Pension Excise Tax Regulations (26 CFR Part 54) under

sections 401, 403, 408, and 4974 of the Internal Revenue Code of 1986 (Code). These amendments conform the regulations to section 634 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) (115 Stat. 117), section 1404 of the Small Business Job Protection Act of 1996 (SBJPA) (110 Stat. 1791), sections 1121 and 1852 of the Tax Reform Act of 1986 (TRA of 1986) (100 Stat. 2464 and 2864), sections 521 and 713 of the Tax Reform Act of 1984 (TRA of 1984) (98 Stat. 865 and 955), and sections 242 and 243 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (96 Stat. 521). The regulations provide guidance on the minimum distribution requirements under section 401(a)(9) for plans qualified under section 401(a) and for other arrangements that incorporate the section 401(a)(9) rules by reference. The section 401(a)(9) rules are incorporated by reference in section 408(a)(6) and (b)(3) for individual retirement accounts and annuities (IRAs) (including Roth IRAs, except as provided in section 408A(c)(5)), section 403(b)(10) for section 403(b) annuity contracts, and section 457(d) for eligible deferred compensation plans.

[14] For purposes of this discussion of the background of the regulations in this preamble, as well as the explanation of provisions below, whenever the term employee is used, it is intended to include not only an employee but also an IRA owner.

[15] Section 401(a)(9) provides rules for distributions during the life of the employee in section 401(a)(9)(A) and rules for distributions after the death of the employee in section 401(a)(9)(B). Section 401(a)(9)(A)(ii) provides that the entire interest of an employee in a qualified plan must be distributed, beginning not later than the employee's required beginning date, in accordance with regulations, over the life of the employee or over the lives of the employee and a designated beneficiary (or over a period not extending beyond the life expectancy of the employee and a designated beneficiary).

[16] Section 401(a)(9)(C) defines required beginning date for employees (other than 5-percent owners and IRA owners) as 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. For 5-percent owners and IRA owners, the required beginning date is April 1 of the calendar year following the calendar year in which the employee attains age 70 1/2, even if the employee has not retired.

[17] Section 401(a)(9)(D) provides that (except in the case of a life annuity) the life expectancy of an employee and the employee's spouse that is used to determine the period over which payments must be made may be redetermined, but not more frequently than annually.

[18] Section 401(a)(9)(E) provides that the term designated beneficiary means any individual designated as a beneficiary by the employee.

[19] Section 401(a)(9)(G) provides that any distribution required to satisfy the incidental death benefit requirement of section 401(a) is a required minimum distribution.

[20] Section 401(a)(9)(B)(i) provides that, if the employee dies after distributions have begun, the employee's interest must be distributed at least as rapidly as under the method used by the employee.

[21] Section 401(a)(9)(B)(ii) and (iii) provides that, if the employee dies before required minimum distributions have begun, the employee's interest must be either: distributed (in accordance with regulations) over the life or life expectancy of the designated beneficiary with the distributions beginning no later than 1 year after the date of the employee's death, or distributed within 5 years after the death of the employee. However, under section 401(a)(9)(B)(iv), a surviving spouse may wait until the date the employee would have attained age 70 1/2 to begin taking required minimum distributions.

[22] Comprehensive proposed regulations under section 401(a)(9) were previously published in the **Federal Register** on January 17, 2001 (REG-130477-00/REG-130481-00; 66 FR 3928) and July 27, 1987 (EE-113-82; 52 FR 28070). The proposed regulations published in 2001 substantially simplified the rules for determining required minimum distributions for separate accounts provided in the 1987 proposed regulations. The public reaction to this simplification was very favorable. Consequently, these final regulations adopt the simplified rules in the 2001 proposed regulations for separate accounts, with the modifications described below in the Explanation of Provisions. These regulations continue to incorporate, with some modifications, applicable previously issued guidance (i.e., Notice 83-23 (1983-2 C.B. 418), Notice 88-38 (1988-1 C.B. 524), Notice 96-67 (1996-2 C. B. 235), and Notice 97-75 (1997-2 C.B. 337)). To the extent not modified or superceded by these regulations, the guidance in Notice 83-23 and Notice 97-75 remains in effect. For example, if an employer uses the same required beginning date for all employees regardless of whether the employee has retired by age 70 1/2, during the period before an employee retires, the employee may determine the portion of any distribution that is eligible for rollover using the statutory definition of required beginning date.

[23] With respect to annuity payments, the 2001 proposed regulations retained the basic structure of the 1987 proposed regulation. The preamble to the 2001 proposed regulations indicated that the IRS and Treasury were continuing to study these rules and specifically requested updated comments on current practices and issues relating to required minimum distributions from annuity contracts. Commentators provided information on the variety of annuity contracts being developed and available as insurance company products for purchase with separate accounts. In response to the comments received, temporary regulations under §1.401(a)(9)-6T significantly expand the situations in which annuity payments under annuity contracts purchased with an employee's benefit may provide for increasing payments. These regulations are being issued in proposed

(REG-108697-02) and temporary form rather than final form in order to give taxpayers an opportunity to comment on these changes.

Explanation of Provisions

Uniform Lifetime Table

[24] These final regulations retain the simplifications to the minimum distribution rules for separate accounts provided in the 2001 proposed regulations, including the calculation of the required minimum distribution during the individual's lifetime using a uniform table. The basic calculation for individual accounts provides that the required minimum distribution is determined by dividing the account balance by the distribution period. For lifetime required minimum distributions, there is a uniform distribution period for almost all employees of the same age. The uniform lifetime distribution period table is based on the joint life and last survivor expectancy of an individual and a hypothetical beneficiary 10 years younger. However, if the employee's sole beneficiary is the employee's spouse and the spouse is more than 10 years younger than the employee, a longer distribution period measured by the joint life and last survivor life expectancy of the employee and spouse is permitted to be used.

[25] For years after the year of the employee's death, the distribution period is generally the remaining life expectancy of the designated beneficiary. The beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the employee's death, reduced by one for each subsequent year. If the employee's spouse is the employee's sole beneficiary, the distribution period during the spouse's life is the spouse's single life expectancy. For years after the year of the spouse's death, the distribution period is the spouse's life expectancy calculated in the year of death, reduced by one for each subsequent year. If there is no designated beneficiary, the distribution period is the employee's life expectancy calculated in the year of death, reduced by one for each subsequent year.

New Mortality Tables

[26] The 2001 proposed regulations provided that the life expectancies for purposes of section 401(a)(9) would be determined using the expected return multiples set forth in the regulations under section 72 that are used for other purposes under the Code. These tables, based upon the experience reflected in the 1983 individual annuity mortality table (without load), were adopted for purposes of section 72 in 1986 and had been used in both the 1987 proposed regulations and the 2001 proposed regulations under section 401(a)(9).

[27] Section 634 of EGTRRA instructed the Secretary of Treasury to modify the life expectancy tables used for purposes of the minimum distribution rules to reflect current life expectancy. In accordance with that instruction, the final regulations adopt new tables of life expectancies to be used for determining required minimum distributions.

[28] The new tables were derived by starting with the basic 2000 individual annuity mortality table and projecting mortality improvement for the period 2000 through 2003 using the assumed mortality improvement factors that were adopted in developing the Annuity 2000 mortality table. The resulting mortality rates were blended using a fixed 50% male 50% female blend. The uniform lifetime table provided in these final regulations has also been adjusted to reflect these new mortality tables.

[29] These new tables also may be used to determine an employee's (or IRA owner's) life expectancy, or the joint life and last survivor expectancy of an employee (or IRA owner) and designated beneficiary, for purposes of calculating the amount of substantially equal periodic payments under section 72(t)(2)(A)(iv) when applying a method permitted under A-12 of Notice 89-25 (1989-1 C.B. 662, 666). One of these methods allows use of the methodology underlying the minimum distribution calculations for separate accounts in which the account balance in the prior year is divided by life expectancy or joint life and last survivor

expectancy. Under this method, the payments are not equal but are treated as substantially equal if the life expectancy is determined in a consistent manner. A series of substantially equal periodic payments under section 72(t)(2)(A)(iv) determined under this methodology will not be considered to have been modified merely because the new tables are used in the future to determine the annual periodic payments rather than the tables in the regulations under section 72.

Determination of the Designated Beneficiary

[30] The 2001 proposed regulations provided that, generally, the designated beneficiary is determined as of the end of the year following the year of the employee's death. Thus, any beneficiary eliminated by distribution of the beneficiary's benefit or through disclaimer during the period between the employee's death and the end of the year following the year of death is disregarded in determining the employee's designated beneficiary for purposes of calculating required minimum distributions. If, as of the end of the year following the year of the employee's death, the employee has more than one designated beneficiary and the account or benefit has not been divided into separate accounts or shares for each beneficiary, the beneficiary with the shortest life expectancy is the designated beneficiary. Further, if a person other than an individual is a beneficiary as of that date, the employee is treated as not having a beneficiary (except as provided below with respect to trusts).

[31] Commentators applauded the basic principle of the approach in the 2001 proposed regulations but suggested that the designated beneficiary determination should be made before the end of the year following the year of death so that there will be adequate time to calculate and distribute the required minimum amount between the date the beneficiary determination is finalized and the end of the year following the year of the employee's death (i.e., the date that required minimum distributions to nonspouse designated beneficiaries must commence). In response to these comments, the date for determining the

designated beneficiary has been changed to September 30 of the year following the year of the employee's death. In response to comments, these final regulations clarify that in order for a beneficiary to disclaim entitlement to a benefit for purposes of section 401(a)(9), the disclaimer must satisfy section 2518. Finally, the final regulations clarify that if a designated beneficiary dies during the period between the employee's date of death and September 30 of the year following the year of the employee's death, the individual continues to be treated as the designated beneficiary for purposes of determining the distribution period rather than the successor beneficiary.

[32] Some commentators requested that final regulations provide that, if the employee's estate was named as the beneficiary in the beneficiary designation or the employee's estate became beneficiary by operation of law, the beneficiary of the estate or the beneficiary of the IRA named under the employee's will could replace the estate as beneficiary by September 30 of the year following the year of death. This change is not being adopted in these final regulations. The period between death and the beneficiary determination date is a period during which beneficiaries can be eliminated but not replaced with a beneficiary not designated under the plan as of the date of death. In order for an individual to be a designated beneficiary, any beneficiary must be designated under the plan or named by the employee as of the date of death.

[33] These regulations retain the rule in the proposed regulations that, in determining an employee's beneficiaries for purposes of applying the multiple beneficiary rule or determining if the employee's spouse is the employee's sole beneficiary, all beneficiaries of the employee's interest in the plan, including contingent beneficiaries, are taken into account. The regulations also retain the exception to this rule under which, if a beneficiary (subsequent beneficiary) is entitled to any portion of an employee's benefit only if another beneficiary dies before the entire benefit to which that other beneficiary is entitled has been distributed by the plan, the subsequent beneficiary will not be considered a

beneficiary. However, these regulations clarify that the exception from the multiple beneficiary rules for death contingencies only applies to a person who could be entitled to a portion of the employee's benefit by becoming the successor to the interest of one of the employee's beneficiaries after that beneficiary's death. The regulations provide that this rule does not apply to a person who has any right (including a contingent right) to an employee's benefit beyond being a mere potential successor to the interest of one of the employee's beneficiaries upon that beneficiary's death. Thus, for example, if one beneficiary has a right to any income on an employee's individual account during that beneficiary's life and another beneficiary has a right to the principal but only after the death of the income beneficiary (with any portion of the principal distributed during the life of the income beneficiary to be held in trust until that beneficiary's death), both beneficiaries must be taken into account in determining the beneficiary with the shortest life expectancy and whether only individuals are beneficiaries.

Default Rule for Post-death Distributions

[34] These regulations, as did the 2001 proposed regulations, provide that, if an employee dies before the employee's required beginning date and the employee has a designated beneficiary, then the life expectancy rule in section 401(a)(9)(B)(iii) (rather than the 5-year rule in section 401(a)(9)(B)(ii)) is the default distribution rule. Thus, absent a plan provision or election of the 5-year rule, the life expectancy rule applies in all cases in which the employee has a designated beneficiary, and the 5-year rule applies if the employee does not have a designated beneficiary. This is a change from the position in the 1987 proposed regulations that provided the 5-year rule as the default unless the spouse was the sole beneficiary. Commentators pointed out that, as a result of the default rule under the 1987 regulations, some beneficiaries did not commence distributions under the life expectancy rules. In response to those comments, these final regulations provide a transition rule that permits

beneficiaries subject to the 5-year rule under the 1987 proposed regulations to switch to the life expectancy rule, provided that all amounts that would have been required to be distributed under an application of the life expectancy rule are distributed by the earlier of December 31, 2003 or the end of the 5-year period following the year of the employee's death.

Temporary Rules for Defined Benefit Plans and Annuity Contracts

[35] These temporary regulations provide a number of changes to the annuity rules provided in the 2001 proposed regulations including changes designed to make the rules more consistent with the rules for individual accounts and reflect new product designs. In order to allow taxpayers to comment on these changes, the section of the regulations governing defined benefit plans and annuities is being issued as temporary and proposed regulations rather than final regulations.

[36] In response to comments, the following changes are being made. First, annuity payments are permitted to be provided for a period certain that is as long as the period under the uniform lifetime table for the employee's age in the year in which the annuity starting date occurs, regardless of who is the employee's designated beneficiary. Further, the period does not change upon the death of the employee even if the remaining period certain is longer or shorter than the beneficiary's single life expectancy. The same rule applies if the annuity also includes a life annuity or a joint and survivor annuity. If the employee's sole designated beneficiary is the employee's spouse, if the spouse is more than 10 years younger than the employee, and if the annuity is only for a period certain and does not have a life contingent element, the period certain can be as long as the joint life and last survivor expectancy of the employee and the employee's spouse.

[37] These temporary regulations retain the rules in the 2001 proposed regulations interpreting the minimum distribution incidental benefit requirement. Under these rules, if the survivor of a joint and survivor annuity is not the

employee's spouse and if the survivor annuitant is more than 10 years younger than the employee, then the survivor portion must be less than 100% of the employee's benefit. In such a case, the survivor annuity must be reduced so that it does not exceed the employee's benefit multiplied by the percentage provided in the table in the regulations. However, the regulations clarify that if the joint and survivor annuity also has a period certain, the reduction in survivor annuity is only required after expiration of the period certain.

[38] Further, in response to comments, the temporary regulations make a number of changes that expand the situations in which increasing annuity payments are permitted. The additional situations are generally only available to annuities purchased from insurance companies.

[39] Under these temporary regulations, an annuity purchased from an insurance company can increase annually by a constant percentage, provided that the initial payment is sufficiently large that the total expected payments, determined without regard to these increases, exceed the account value being annuitized. This minimum payment requirement, together with the adverse economic interests of the insurer and the annuity purchaser, effectively limits the constant percentage increase under an annuity to the assumed interest rate used in pricing the annuity.

[40] These temporary regulations also provide explicit rules relating to the payments of dividends under participating annuity contracts. Under the temporary regulations, a variation in the amount of the annuity payment (referred to as a dividend or other payment resulting from favorable actuarial experience) can be made provided that: (1) the initial payment meets the minimum threshold described above, (2) actuarial experience is measured at least annually, and (3) the resulting dividend payment or other payment is either paid no later than the year following the year for which the actuarial experience is measured or is payable in the same form as the payment of the annuity over the remaining

period of the annuity. These requirements are intended to preclude backloading of the distribution stream through the use of conservative pricing assumptions where actuarial gains with respect to those assumptions are deferred and paid at a later date. The definition of dividend or other payment resulting from actuarial gain is broad enough to encompass the contractual adjustment provided for in a variable annuity. Accordingly, the rules that permitted payments that vary with the investment performance of underlying assets has been replaced with this more general construct.

[41] The temporary regulations allow full and partial withdrawals from purchased annuities in certain circumstances. The restrictions on these withdrawals are intended to preclude the use of a withdrawal or cash-out feature as a mechanism to distribute deferred actuarial gains. In the case of a full withdrawal (including a death benefit), the distribution must not exceed the expected future payments under the contract, taking into account the annuitants who are still alive and any remaining period certain, but without regard to any future increases. In the case of a partial withdrawal, the full withdrawal under the terms of the contract must satisfy the preceding sentence and, after the partial withdrawal, all future annuity payments must be reduced proportionately based on the ratio of the partial withdrawal to the maximum withdrawal under the terms of the contract.

[42] As discussed above, these permitted increases are only available for insurance company products and not a distribution stream provided from a section 401(a) defined benefit trust. In addition, these temporary regulations do not permit annuity payments that vary with the value of the underlying assets of the plan to be provided by a defined benefit plan with a section 401(a) qualified trust. Further, these regulations clarify that an annuity under a defined benefit plan with a section 401(a) qualified trust is permitted to provide that annuity payments may increase with an annual percentage increase that does not exceed the percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics. Finally, the temporary

regulations clarify that increases in these annuity payments to reflect benefit increases must be pursuant to a plan amendment increasing benefits.

[43] The preamble to the 2001 proposed regulations indicated that the IRS and Treasury were continuing to consider whether retention of the rule allowing an employee's minimum required distributions under a defined benefit plan to be determined using the rules for individual accounts was appropriate for defined benefit plans. Few comments specifically requested retention of this rule. As a result, the IRS and Treasury have concluded that this rule has little application outside of being used to determine the portion of a lump sum distribution of an employee's vested accrued benefit that is eligible for rollover. Accordingly, this rule has not been retained in these temporary regulations except for use in determining the amount that is eligible for rollover when a defined benefit plan pays an employee's entire vested accrued benefit in a lump sum. However, in response to comments, these temporary regulations permit a plan to treat the amount of a year of annuity payments that would have been payable under the normal form as the minimum required distribution for a year in the case of a lump sum payment.

[44] Finally, in response to a comment, these temporary regulations clarify that actuarial increases to benefits under a defined benefit plan required under section 401(a)(9)(C)(iii), as added by SBJPA, need not be provided for any period before January 1, 1997.

Incidental Benefit Requirement

[45] These final and temporary regulations provide rules relating to the interaction of the section 401(a)(9) requirements and the incidental benefit requirement of §1.401-1(b)(1)(i). Under these rules, generally if distributions with respect to an employee's benefit satisfy the minimum distribution incidental benefit requirement under these regulations, the distribution will be deemed to satisfy any requirement for distributions under the incidental benefit requirements of §1.401-

1(b)(1)(i). However, if a plan provides for certain post-retirement ancillary death benefits or a section 403(b) contract includes an undistributed pre-1987 account, the employee's benefits must continue to satisfy the distribution requirements of the incidental benefit requirement of §1.401-1(b)(1)(i), determined without regard to these regulations. Existing revenue rulings continue to provide guidance with respect to the application of the incidental benefit requirements to permissible nonretirement benefits such as life, accident, or health benefits.

Trust as Beneficiary

[46] The final regulations retain the provision in the proposed regulations allowing an underlying beneficiary of a trust to be an employee's designated beneficiary for purposes of determining required minimum distributions when the trust is named as the beneficiary of a retirement plan or IRA, provided that certain requirements are met. One of these requirements is that documentation of the underlying beneficiaries of the trust be provided to the plan administrator or IRA trustee, custodian, or issuer. In the case of individual accounts, unless the lifetime distribution period for an employee is measured by the joint life expectancy of the employee and the employee's spouse, the deadline under these regulations for providing the beneficiary documentation is October 31 of the year following the year of the employee's death, rather than the end of the year following the year of the employee's death as provided under the 2001 proposed regulations.

[47] This deadline for providing the trust documentation is coordinated with the deadline for determining the employee's designated beneficiary. Amendments to the 1987 proposed regulations published in 1997 eliminated the requirement that the trust be irrevocable before death. Commentators indicated that some beneficiaries would have qualified for a longer distribution period as a result of this change except for the fact that they had not provided the required documentation by the deadline provided in the regulations, which, in some cases,

was a date before the regulation was published. Consequently, the commentators requested that final regulations provide a transition period for providing this documentation. In response to these comments, these regulations provide that, if the date for providing this documentation is before October 31, 2003, the documentation is permitted to be provided to the plan administrator (or IRA trustee, custodian, or issuer) until October 31, 2003.

[48] Commentators asked for clarification as to whether an election by a revocable trust to be treated as part of an estate under section 645 causes the trust to be treated as an estate for purposes of section 401(a)(9). On this point, the IRS and Treasury intend that a revocable trust will not fail to be a trust for purposes of section 401(a)(9) merely because the trust elects to be treated as an estate under section 645, as long as the trust continues to be a trust under state law.

Separate Accounts

[49] Several commentators requested clarification concerning when an employee's individual account can be divided into separate accounts that are permitted to satisfy section 401(a)(9) separately and concerning whether separate accounts could also provide for separate investments. In response to these comments, these final regulations provide that separate accounts with different beneficiaries under the plan can be established at any time, either before or after the employee's required beginning date. However, the final regulations provide that the separate accounts are recognized for purposes of determining required minimum distributions only after the later of the year of the employee's death (whether before or after the required beginning date) and the year the separate accounts are established. In addition, the final regulations clarify that, in order to determine the distribution period for the separate account by disregarding the beneficiaries of the other separate account, the separate

account must be established no later than the end of the year following the year of the employee's death.

[50] The separate accounting must allocate all post-death investment gains and losses for the period prior to the establishment of the separate accounts on a pro rata basis in a reasonable and consistent basis among the separate accounts for the different beneficiaries. The separate accounting must also allocate any post-death distribution to the separate account of the beneficiary receiving that distribution. Once the separate accounts are established, the final regulations permit the separate accounting to provide for separate investments for each separate account.

Elimination of Optional Forms of Benefit

[51] Some commentators requested relief under section 411(d)(6) for the elimination of optional forms of benefit that were needed to satisfy section 401(a)(9) under the 1987 proposed regulations but that are no longer needed to satisfy these final regulations. For defined contribution plans, this relief generally is not needed because paragraph (e) of A-2 of §1.411(d)-4 gives broad authority to employers to amend their defined contribution plan to eliminate installment payout options as long as the right to a lump sum option payable at the same time is preserved. These final regulations also provide that, pursuant to section 411(d)(6)(B), a plan will not fail to satisfy section 411(d)(6) merely because the plan is amended to eliminate the availability of an optional form of benefit to the extent that the optional form does not satisfy section 401(a)(9). However, the IRS and Treasury invite public comment if additional relief under section 411(d)(6) is needed in order for defined benefit plans to satisfy section 401(a)(9).

Election of Surviving Spouse to Treat an Inherited IRA as Spouse's Own IRA

[52] These final regulations generally retain the clarifications in the 2001 proposed regulations regarding how and when a surviving spouse of a deceased

IRA owner can elect to treat an IRA inherited by the surviving spouse from that owner as the spouse's own IRA. The 1987 proposed regulations provided that this election is deemed to have been made if the surviving spouse contributes to the IRA or does not take the required minimum distribution for a year under section 401(a)(9)(B) as a beneficiary of the IRA. Under the 2001 proposed regulations, this deemed election is permitted to be made only after the distribution of the required minimum amount for the account, if any, for the year of the individual's death. These final regulations provide that the election can be made at any time after the IRA owner's date of death, while clarifying that the minimum required distribution for the calendar year of the IRA's owner's death is determined assuming the IRA owner lived throughout the year. These regulations also clarify that the surviving spouse is required to receive a minimum distribution for the year of the IRA owner's death only to the extent that the amount required was not distributed to the owner before death.

[53] Some commentators raised concerns about the other clarifications in the 2001 proposed regulations. The 2001 proposed regulations clarified that a deemed election is permitted only if the spouse is the sole beneficiary of the account and has an unlimited right to withdraw from the account. This requirement is not satisfied if a trust is named as beneficiary of the IRA, even if the spouse is the sole beneficiary of the trust. As explained in the 2001 preamble, these clarifications make the election consistent with the underlying premise that the surviving spouse could have received a distribution of the entire decedent IRA owner's account and rolled it over to an IRA established in the surviving spouse's own name as IRA owner.

[54] If the spouse actually receives a distribution from the IRA, the spouse is permitted to roll that distribution over within 60 days into an IRA in the spouse's own name to the extent that the distribution is not a required distribution, regardless of whether or not the spouse is the sole beneficiary of the IRA owner. Further, if the distribution is received by the spouse before the year that the IRA

owner would have been 70 1/2, no portion of the distribution is a required minimum distribution for purposes of determining whether it is eligible to be rolled over by the surviving spouse.

IRA Reporting of Required Minimum Distributions

[55] The 2001 proposed regulations required the trustee, custodian, or issuer of an IRA to report the amount of the required minimum distribution from the IRA at the time and in the manner provided under additional guidance issued by the IRS and applicable IRS forms and instructions. A significant number of commentators objected to the requirement that the amount of the required minimum distribution for a year be reported because of concerns that the number may be inaccurate in certain cases. After thorough consideration of these comments and consultation with interested parties, the final regulations continue to provide authority to the Service to determine the extent to which the trustee, custodian, or issuer of an IRA must report information with respect to the required minimum distribution from that IRA through guidance of general applicability as well as forms and publications.

[56] In conjunction with these final regulations a notice is being published that specifies the reporting requirements that apply. Beginning in 2004, trustees, custodians, and issuers must identify to the IRS on Form 5498 each IRA for which a minimum distribution is required to be made to an IRA owner. The trustee, custodian or issuer does not need to report the amount of the required distribution to the IRS. However, the trustee, custodian, or issuer of such an IRA, must provide additional information regarding the IRA to the IRA owner required to receive a minimum required distribution, beginning with the minimum required distribution for 2003. The trustee, custodian or issuer of the IRA either must report the amount of the required minimum distribution for the IRA to the IRA owner, or must advise the IRA owner that a minimum distribution with respect to the IRA is required for the year, offer to calculate the amount of the required

minimum distribution for the IRA owner upon request, and then, if requested, calculate the amount and provide it to the IRA owner. Although the delegation of authority in the regulations to require reporting would permit reporting to be required with respect to required minimum distributions to beneficiaries, no reporting is required with respect to beneficiaries at this time.

[57] The reporting provisions in the 2001 proposed regulations, these final regulations, and the notice being published are intended to assist taxpayers in complying with the minimum distribution requirement. However, the Treasury and the IRS continue to have concerns about the overall level of compliance in this area and intend to monitor the effect of the new reporting regime on compliance to determine whether it would be appropriate to modify the regime in the future.

Calculation Simplification

[58] In response to comments that there are too many variables that might change during a distribution calendar year for an accurate calculation of the required minimum distribution for the year by the trustee at the beginning of the year, a number of simplifying changes are included in these final regulations. For lifetime distributions, the marital status of the employee is determined on January 1 each year. Divorce or death after that date is disregarded until the next year. Further, a change in beneficiary due to the spouse's death is not recognized until the following year. Contributions and distributions made after December 31 of a calendar year are disregarded for purposes of determining the minimum distribution for the following year. An employee's account balance for the valuation calendar year that is also the employee's first distribution calendar year is no longer reduced for a distribution on April 1 to satisfy the minimum distribution requirement for the first distribution calendar year. Contributions made after the calendar year that are allocated as of a date in the prior calendar year are no longer required to be added back. The only exceptions are rollover amounts, and recharacterized conversion contributions, that are not in any

account on December 31 of a year. These changes are made to the qualified plan rules as well as IRA rules to maintain the parity between the rules.

Other Rules for IRAs

[59] These final regulations retain the general rule that the rules applying section 401(a)(9) to qualified plans apply also to IRAs, unless otherwise provided. In addition to retaining the special rules for IRAs provided in the 2001 proposed regulations, these final regulations provide a special rule for trustee-to-trustee transfers between IRAs to coordinate with the rule that allows aggregation of IRA distributions. Although the IRA to IRA transfer is not treated as a distribution for purposes of section 401(a)(9), in light of the fact that the required minimum distribution with respect to the transferor IRA can be taken from any IRA, the transferor IRA will be able to transfer the entire balance and will not be required to retain the amount of the required minimum distribution for the year.

Section 403(b) Contracts

[60] These regulations retain the basic rule in the 1987 and 2001 proposed regulations that a section 403(b) contract is treated as an individual retirement plan for purposes of satisfying the required minimum distribution rules. Consequently, the delegation of authority to require reporting with respect to IRAs also applies to section 403(b) contracts. However, the notice being issued in conjunction with these regulations provides that no reporting is required at this time with respect to required minimum distributions from section 403(b) contracts.

[61] As requested in comments to the 1987 and the 2001 proposed regulations, these regulations provide that an annuity provided with respect to a section 403(b)(9) retirement income account will not fail to satisfy the requirements for annuity payment under an annuity contract merely because the annuity is not provided under a contract purchased from an insurance company.

[62] Section 1852(a) of TRA '86 applied section 401(a)(9) to section 403(b) contracts effective for benefits accruing after December 31, 1986. The final regulations retain the rule in the proposed regulations interpreting the effective date of section 1852(a) of TRA '86 that does not apply section 401(a)(9) to the undistributed portion of the employee's account balance in a section 403(b) contract as of December 31, 1986 (the pre-'87 account balance). Further, the final regulations clarify that a contract will not lose the grandfather for a pre-'87 account balance merely because the account balance is transferred from one section 403(b) contract to another, provided the issuer of the transferee contract satisfies the recordkeeping requirements for the pre-'87 account balance. However, a distribution and rollover (including a direct rollover) of an amount from the pre-'87 account will cause that amount to lose the grandfather treatment.

Amendment of Qualified Plans

[63] The IRS intends to publish procedures in the near future that will provide guidance on amending qualified plans to reflect these final regulations under section 401(a)(9).

Amendment of IRAs and Effective Date

[64] Rev. Proc. 2002-10 (2002-4 I.R.B. 401), provides guidance on when IRA documents must be updated for these final regulations and for changes made by EGTRRA.

Effective Date

[65] The regulations apply for determining required minimum distributions for calendar years beginning on or after January 1, 2003. For determining required minimum distributions for calendar year 2002, taxpayers may rely on these final regulations, the 2001 proposed regulations, or the 1987 proposed regulations.

Special Analyses

[66] It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that the collection of information in these regulations does not have a significant economic impact on a substantial number of small entities. This certification is based on the following. The only provisions requiring collection of information are in A-2 of §1.401(a)(9)-1, A-4 of §1.401(a)(9)-3, A-5 and A-6 of §1.401(a)(9)-4, and A-2 of §1.403(b)-3. The election described in A-4 of §1.401(a)(9)-3 is expected to be an unusual occurrence for small entities because few individuals with benefits in retirement plans maintained by small entities are likely to make these elections. In the case of A-2 of §1.401(a)(9)-1 and A-5 and A-6 of §1.401(a)(9)-4, when determining required minimum distributions in cases where a plan participant wishes to designate a trust as beneficiary of the participant's benefit, the reporting burden is primarily on the plan participant, or trustee of the trust named as beneficiary, to supply information rather than on the entity maintaining the retirement plan and the fact that the number of participants per plan to whom the burden applies is insignificant. In A-2 of §1.403(b)-3, the recordkeeping burden with respect to section 403(b) contracts under which the pre-1987 account balance must be maintained only applies to issuers and custodians of those contracts, which generally are not small entities. Therefore, a Regulatory Flexibility Analysis (5 U.S.C. chapter 6) is not required for this regulation. Pursuant to section 7805(f) of the Internal Revenue Code, the notices of proposed rulemaking preceding the final rule were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business and temporary §1.401(a)(9)-6T will be submitted to the Chief Counsel for such comments.

Drafting Information

[67] The principal authors of these regulations are Marjorie Hoffman and Cathy A. Vohs of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects

26 CFR Part 1

[68] Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 54

[69] Excise taxes, Pensions, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

[70] Accordingly, 26 CFR part 1 is amended as follows:

PART 1 -- INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§1.401(a)(9)-1 is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-2 is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-3 is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-4 is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-5 is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-6T is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-7 is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-8 is also issued under 26 U.S.C. 401(a)(9).

§1.401(a)(9)-9 is also issued under 26 U.S.C. 401(a)(9). * * *

§1.403(b)-3 is also issued under 26 U.S.C. 403(b)(10). * * *

§1.408-8 is also issued under 26 U.S.C. 408(a)(6) and (b)(3).

* * *

Par. 2. Sections 1.401(a)(9)-0 through 1.401(a)(9)-9 are added to read as follows:

§1.401(a)(9)-0 Required minimum distributions; table of contents.

This table of contents lists the regulations relating to required minimum distributions under section 401(a)(9) of the Internal Revenue Code as follows:

§1.401(a)(9)-0 Required minimum distributions; table of contents.

§1.401(a)(9)-1 Minimum distribution requirement in general.

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

§1.401(a)(9)-3 Death before required beginning date.

§1.401(a)(9)-4 Determination of the designated beneficiary.

§1.401(a)(9)-5 Required minimum distributions from defined contribution plans.

§1.401(a)(9)-6T Required minimum distributions for defined benefit plans and annuity contracts (temporary).

§1.401(a)(9)-7 Rollovers and transfers.

§1.401(a)(9)-8 Special rules.

§1.401(a)(9)-9 Life expectancy and distribution period tables.

§1.401(a)(9)-1 Minimum distribution requirement in general.

Q-1. What plans are subject to the minimum distribution requirement under section 401(a)(9), this section, and §§1.401(a)(9)-2 through 1.401(a)(9)-9?

A-1. Under section 401(a)(9), all stock bonus, pension, and profit-sharing plans qualified under section 401(a) and annuity contracts described in section 403(a) are subject to required minimum distribution rules. See this section and §§1.401(a)(9)-2 through 1.401(a)(9)-9 for the distribution rules applicable to these plans. Under section 403(b)(10), annuity contracts or custodial accounts described in section 403(b) are subject to required minimum distribution rules. See §1.403(b)-3 for the distribution rules applicable to these annuity contracts or custodial accounts. Under section 408(a)(6) and 408(b)(3), individual retirement plans (including, for some purposes, Roth IRAs under section 408A) are subject to required minimum distribution rules. See §1.408-8 for the distribution rules applicable to individual retirement plans and see §1.408A-6 for the distribution rules applicable to Roth IRAs under section 408A. Under section 457(d)(2), certain deferred compensation plans for employees of tax exempt organizations or state and local government employees are subject to required minimum distribution rules.

Q-2. Which employee account balances and benefits held under qualified trusts and plans are subject to the distribution rules of section 401(a)(9), this section, and §§1.401(a)(9)-2 through 1.401(a)(9)-9?

A-2. (a) In general. The distribution rules of section 401(a)(9) apply to all account balances and benefits in existence on or after January 1, 1985. This section and §§1.401(a)(9)-2 through 1.401(a)(9)-9 apply for purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2003.

(b) Beneficiaries. (1) The distribution rules of this section and §§ 1.401(a)(9)-2 through 1.401(a)(9)-9 apply to account balances and benefits held for the benefit of a beneficiary for calendar years beginning on or after January 1, 2003, even if the employee died prior to January 1, 2003. Thus, in the case of an employee

who died prior to January 1, 2003, the designated beneficiary must be redetermined in accordance with the provisions of §1.401(a)(9)-4 and the applicable distribution period (determined under §1.401(a)(9)-5 or 1.401(a)(9)-6T, whichever is applicable) must be reconstructed for purposes of determining the amount required to be distributed for calendar years beginning on or after January 1, 2003.

(2) A designated beneficiary that is receiving payments under the 5-year rule of section 401(a)(9)(B)(ii), either by affirmative election or default provisions, may, if the plan so provides, switch to using the life expectancy rule of section 401(a)(9)(B)(iii) provided any amounts that would have been required to be distributed under the life expectancy rule of section 401(a)(9)(B)(iii) for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period determined under A-2 of §1.401(a)(9)-3.

(c) Trust documentation. If a trust fails to meet the rule of A-5 of §1.401(a)(9)-4 (permitting the beneficiaries of the trust, and not the trust itself, to be treated as the employee's designated beneficiaries) solely because the trust documentation was not provided to the plan administrator by October 31 of the calendar year following the calendar year in which the employee died, and such documentation is provided to the plan administrator by October 31, 2003, the beneficiaries of the trust will be treated as designated beneficiaries of the employee under the plan for purposes of determining the distribution period under section 401(a)(9).

Q-3. What specific provisions must a plan contain in order to satisfy section 401(a)(9)?

A-3. (a) Required provisions. In order to satisfy section 401(a)(9), the plan must include the provisions described in this paragraph reflecting section 401(a)(9). First, the plan must generally set forth the statutory rules of section 401(a)(9), including the incidental death benefit requirement in section 401(a)(9)(G). Second, the plan must provide that distributions will be made in accordance with

this section and §§1.401(a)(9)-2 through 1.401(a)(9)-9. The plan document must also provide that the provisions reflecting section 401(a)(9) override any distribution options in the plan inconsistent with section 401(a)(9). The plan also must include any other provisions reflecting section 401(a)(9) that are prescribed by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

(b) Optional provisions. The plan may also include written provisions regarding any optional provisions governing plan distributions that do not conflict with section 401(a)(9) and the regulations thereunder.

(c) Absence of optional provisions. Plan distributions commencing after an employee's death will be required to be made under the default provision set forth in §1.401(a)(9)-3 for distributions unless the plan document contains optional provisions that override such default provisions. Thus, if distributions have not commenced to the employee at the time of the employee's death, distributions after the death of an employee are to be made automatically in accordance with the default provisions in A-4(a) of §1.401(a)(9)-3 unless the plan either specifies in accordance with A-4(b) of §1.401(a)(9)-3 the method under which distributions will be made or provides for elections by the employee (or beneficiary) in accordance with A-4(c) of §1.401(a)(9)-3 and such elections are made by the employee or beneficiary.

§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)-6T.

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)-6T.

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)-6T, 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.

§1.401(a)(9)-3 Death before required beginning date.

Q-1. If an employee dies before the employee's required beginning date, how must the employee's entire interest be distributed in order to satisfy section 401(a)(9)?

A-1. (a) Except as otherwise provided in A-10 of §1.401(a)(9)-6T, if an employee dies before the employee's required beginning date (and, thus, before distributions are treated as having begun in accordance with section

401(a)(9)(A)(ii)), distribution of the employee's entire interest must be made in accordance with one of the methods described in section 401(a)(9)(B)(ii) or (iii) and (iv). One method (the 5-year rule in section 401(a)(9)(B)(ii)) requires that the entire interest of the employee be distributed within 5 years of the employee's death regardless of who or what entity receives the distribution. Another method (the life expectancy rule in section 401(a)(9)(B)(iii) and (iv)) requires that any portion of an employee's interest payable to (or for the benefit of) a designated beneficiary be distributed, commencing within one year of the employee's death, over the life of such beneficiary (or over a period not extending beyond the life expectancy of such beneficiary). Section 401(a)(9)(B)(iv) provides special rules where the designated beneficiary is the surviving spouse of the employee, including a special commencement date for distributions under section 401(a)(9)(B)(iii) to the surviving spouse.

(b) See A-4 of this section for the rules for determining which of the methods described in paragraph (a) of this A-1 applies. See A- 3 of this section to determine when distributions under the exception to the 5-year rule in section 401(a)(9)(B)(iii) and (iv) must commence. See A-2 of this section to determine when the 5-year period in section 401(a)(9)(B)(ii) ends. For distributions using the life expectancy rule in section 401(a)(9)(B)(iii) and (iv), see §1.401(a)(9)-4 in order to determine the designated beneficiary under section 401(a)(9)(B)(iii) and (iv), see §1.401(a)(9)-5 for the rules for determining the required minimum distribution under a defined contribution plan, and see §1.401(a)(9)-6T for required minimum distributions under defined benefit plans.

Q-2. By when must the employee's entire interest be distributed in order to satisfy the 5-year rule in section 401(a)(9)(B)(ii)?

A-2. In order to satisfy the 5-year rule in section 401(a)(9)(B)(ii), the employee's entire interest must be distributed by the end of the calendar year which contains the fifth anniversary of the date of the employee's death. For example, if an

employee dies on January 1, 2003, the entire interest must be distributed by the end of 2008, in order to satisfy the 5-year rule in section 401(a)(9)(B)(ii).

Q-3. When are distributions required to commence in order to satisfy the life expectancy rule in section 401(a)(9)(B)(iii) and (iv)?

A-3. (a) Nonspouse beneficiary. In order to satisfy the life expectancy rule in section 401(a)(9)(B)(iii), if the designated beneficiary is not the employee's surviving spouse, distributions must commence on or before the end of the calendar year immediately following the calendar year in which the employee died. This rule also applies to the distribution of the entire remaining benefit if another individual is a designated beneficiary in addition to the employee's surviving spouse. See A-2 and A-3 of §1.401(a)(9)-8, however, if the employee's benefit is divided into separate accounts.

(b) Spousal beneficiary. In order to satisfy the rule in section 401(a)(9)(B)(iii) and (iv), if the sole designated beneficiary is the employee's surviving spouse, distributions must commence on or before the later of --

(1) The end of the calendar year immediately following the calendar year in which the employee died; and

(2) The end of the calendar year in which the employee would have attained age 70 1/2.

Q-4. How is it determined whether the 5-year rule in section 401(a)(9)(B)(ii) or the life expectancy rule in section 401(a)(9)(B)(iii) and (iv) applies to a distribution?

A-4. (a) No plan provision. If a plan does not adopt an optional provision described in paragraph (b) or (c) of this A-4 specifying the method of distribution after the death of an employee, distribution must be made as follows:

(1) If the employee has a designated beneficiary, as determined under §1.401(a)(9)-4, distributions are to be made in accordance with the life expectancy rule in section 401(a)(9)(B)(iii) and (iv).

(2) If the employee has no designated beneficiary, distributions are to be made in accordance with the 5-year rule in section 401(a)(9)(B)(ii).

(b) Optional plan provisions. A plan may adopt a provision specifying either that the 5-year rule in section 401(a)(9)(B)(ii) will apply to certain distributions after the death of an employee even if the employee has a designated beneficiary or that distribution in every case will be made in accordance with the 5-year rule in section 401(a)(9)(B)(ii). Further, a plan need not have the same method of distribution for the benefits of all employees in order to satisfy section 401(a)(9).

(c) Elections. A plan may adopt a provision that permits employees (or beneficiaries) to elect on an individual basis whether the 5-year rule in section 401(a)(9)(B)(ii) or the life expectancy rule in section 401(a)(9)(B)(iii) and (iv) applies to distributions after the death of an employee who has a designated beneficiary. Such an election must be made no later than the earlier of the end of the calendar year in which distribution would be required to commence in order to satisfy the requirements for the life expectancy rule in section 401(a)(9)(B)(iii) and (iv) (see A-3 of this section for the determination of such calendar year) or the end of the calendar year which contains the fifth anniversary of the date of death of the employee. As of the last date the election may be made, the election must be irrevocable with respect to the beneficiary (and all subsequent beneficiaries) and must apply to all subsequent calendar years. If a plan provides for the election, the plan may also specify the method of distribution that applies if neither the employee nor the beneficiary makes the election. If neither the employee nor the beneficiary elects a method and the plan does not specify which method applies, distribution must be made in accordance with paragraph (a) of this A-4.

Q-5. If the employee's surviving spouse is the employee's sole designated beneficiary and such spouse dies after the employee, but before distributions have begun to the surviving spouse under section 401(a)(9)(B)(iii) and (iv), how is the employee's interest to be distributed?

A-5. Pursuant to section 401(a)(9)(B)(iv)(II), if the surviving spouse is the employee's sole designated beneficiary and dies after the employee, but before distributions to such spouse have begun under section 401(a)(9)(B)(iii) and (iv), the 5-year rule in section 401(a)(9)(B)(ii) and the life expectancy rule in section 401(a)(9)(B)(iii) are to be applied as if the surviving spouse were the employee. In applying this rule, the date of death of the surviving spouse shall be substituted for the date of death of the employee. However, in such case, the rules in section 401(a)(9)(B)(iv) are not available to the surviving spouse of the deceased employee's surviving spouse.

Q-6. For purposes of section 401(a)(9)(B)(iv)(II), when are distributions considered to have begun to the surviving spouse?

A-6. Distributions are considered to have begun to the surviving spouse of an employee, for purposes of section 401(a)(9)(B)(iv)(II), on the date, determined in accordance with A-3 of this section, on which distributions are required to commence to the surviving spouse, even though payments have actually been made before that date. See A-11 of §1.401(a)(9)-6T for a special rule for annuities.

§1.401(a)(9)-4 Determination of the designated beneficiary.

Q-1. Who is a designated beneficiary under section 401(a)(9)(E)?

A-1. A designated beneficiary is an individual who is designated as a beneficiary under the plan. An individual may be designated as a beneficiary under the plan either by the terms of the plan or, if the plan so provides, by an affirmative

election by the employee (or the employee's surviving spouse) specifying the beneficiary. A beneficiary designated as such under the plan is an individual who is entitled to a portion of an employee's benefit, contingent on the employee's death or another specified event. For example, if a distribution is in the form of a joint and survivor annuity over the life of the employee and another individual, the plan does not satisfy section 401(a)(9) unless such other individual is a designated beneficiary under the plan. A designated beneficiary need not be specified by name in the plan or by the employee to the plan in order to be a designated beneficiary so long as the individual who is to be the beneficiary is identifiable under the plan. The members of a class of beneficiaries capable of expansion or contraction will be treated as being identifiable if it is possible, to identify the class member with the shortest life expectancy. The fact that an employee's interest under the plan passes to a certain individual under a will or otherwise under applicable state law does not make that individual a designated beneficiary unless the individual is designated as a beneficiary under the plan. See A-6 of §1.401(a)(9)-8 for rules which apply to qualified domestic relation orders.

Q-2. Must an employee (or the employee's spouse) make an affirmative election specifying a beneficiary for a person to be a designated beneficiary under section 401(a)(9)(E)?

A-2. No, a designated beneficiary is an individual who is designated as a beneficiary under the plan whether or not the designation under the plan was made by the employee. The choice of beneficiary is subject to the requirements of sections 401(a)(11), 414(p), and 417.

Q-3. May a person other than an individual be considered to be a designated beneficiary for purposes of section 401(a)(9)?

A-3. No, only individuals may be designated beneficiaries for purposes of section 401(a)(9). A person that is not an individual, such as the employee's estate, may

not be a designated beneficiary. If a person other than an individual is designated as a beneficiary of an employee's benefit, the employee will be treated as having no designated beneficiary for purposes of section 401(a)(9), even if there are also individuals designated as beneficiaries. However, see A-5 of this section for special rules that apply to trusts and A-2 and A-3 of §1.401(a)(9)-8 for rules that apply to separate accounts.

Q-4. When is the designated beneficiary determined?

A-4. (a) General rule. In order to be a designated beneficiary, an individual must be a beneficiary as of the date of death. Except as provided in paragraph (b) and §1.401(a)(9)-6T, the employee's designated beneficiary will be determined based on the beneficiaries designated as of the date of death who remain beneficiaries as of September 30 of the calendar year following the calendar year of the employee's death. Consequently, except as provided in §1.401(a)(9)-6T, any person who was a beneficiary as of the date of the employee's death, but is not a beneficiary as of that September 30 (e.g., because the person receives the entire benefit to which the person is entitled before that September 30), is not taken into account in determining the employee's designated beneficiary for purposes of determining the distribution period for required minimum distributions after the employee's death. Accordingly, if a person disclaims entitlement to the employee's benefit, pursuant to a disclaimer that satisfies section 2518 by that September 30 thereby allowing other beneficiaries to receive the benefit in lieu of that person, the disclaiming person is not taken into account in determining the employee's designated beneficiary.

(b) Surviving spouse. As provided in A-5 of §1.401(a)(9)-3, if the employee's spouse is the sole designated beneficiary as of September 30 of the calendar year following the calendar year of the employee's death, and the surviving spouse dies after the employee and before the date on which distributions have begun to the surviving spouse under section 401(a)(9)(B)(iii) and (iv), the rule in

section 401(a)(9)(B)(iv)(II) will apply. Thus, for example, the relevant designated beneficiary for determining the distribution period after the death of the surviving spouse is the designated beneficiary of the surviving spouse. Similarly, such designated beneficiary will be determined based on the beneficiaries designated as of the date of the surviving spouse's death and who remain beneficiaries as of September 30 of the calendar year following the calendar year of the surviving spouse's death. Further, if, as of that September 30, there is no designated beneficiary under the plan with respect to that surviving spouse, distribution must be made in accordance with the 5-year rule in section 401(a)(9)(B)(ii) and A-2 of §1.401(a)(9)-3.

(c) Deceased beneficiary. For purposes of this A-4, an individual who is a beneficiary as of the date of the employee's death and dies prior to September 30 of the calendar year following the calendar year of the employee's death without disclaiming continues to be treated as a beneficiary as of the September 30 of the calendar year following the calendar year of the employee's death in determining the employee's designated beneficiary for purposes of determining the distribution period for required minimum distributions after the employee's death, without regard to the identity of the successor beneficiary who is entitled to distributions as the beneficiary of the deceased beneficiary. The same rule applies in the case of distributions to which A-5 of §1.401(a)(9)-3 applies so that, if an individual is designated as a beneficiary of an employee's surviving spouse as of the spouse's date of death and dies prior to September 30 of the year following the year of the surviving spouse's death, that individual will continue to be treated as a designated beneficiary.

Q-5. If a trust is named as a beneficiary of an employee, will the beneficiaries of the trust with respect to the trust's interest in the employee's benefit be treated as having been designated as beneficiaries of the employee under the plan for purposes of determining the distribution period under section 401(a)(9)?

A-5. (a) If the requirements of paragraph (b) of this A-5 are met with respect to a trust that is named as the beneficiary of an employee under the plan, the beneficiaries of the trust (and not the trust itself) will be treated as having been designated as beneficiaries of the employee under the plan for purposes of determining the distribution period under section 401(a)(9).

(b) The requirements of this paragraph (b) are met if, during any period during which required minimum distributions are being determined by treating the beneficiaries of the trust as designated beneficiaries of the employee, the following requirements are met --

(1) The trust is a valid trust under state law, or would be but for the fact that there is no corpus.

(2) The trust is irrevocable or will, by its terms, become irrevocable upon the death of the employee.

(3) The beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the employee's benefit are identifiable within the meaning of A-1 of this section from the trust instrument.

(4) The documentation described in A-6 of this section has been provided to the plan administrator.

(c) In the case of payments to a trust having more than one beneficiary, see A-7 of §1.401(a)(9)-5 for the rules for determining the designated beneficiary whose life expectancy will be used to determine the distribution period and A-3 of this section for the rules that apply if a person other than an individual is designated as a beneficiary of an employee's benefit. However, the separate account rules under A-2 of §1.401(a)(9)-8 are not available to beneficiaries of a trust with respect to the trust's interest in the employee's benefit.

(d) If the beneficiary of the trust named as beneficiary of the employee's interest is another trust, the beneficiaries of the other trust will be treated as being designated as beneficiaries of the first trust, and thus, having been designated by the employee under the plan for purposes of determining the distribution period under section 401(a)(9)(A)(ii), provided that the requirements of paragraph (b) of this A-5 are satisfied with respect to such other trust in addition to the trust named as beneficiary.

Q-6. If a trust is named as a beneficiary of an employee, what documentation must be provided to the plan administrator?

A-6. (a) Required minimum distributions before death. If an employee designates a trust as the beneficiary of his or her entire benefit and the employee's spouse is the sole beneficiary of the trust, in order to satisfy the documentation requirements of this A-6 so that the spouse can be treated as the sole designated beneficiary of the employee's benefits (if the other requirements of paragraph (b) of A-5 of this section are satisfied), the employee must either --

(1) Provide to the plan administrator a copy of the trust instrument and agree that if the trust instrument is amended at any time in the future, the employee will, within a reasonable time, provide to the plan administrator a copy of each such amendment; or

(2) Provide to the plan administrator a list of all of the beneficiaries of the trust (including contingent and remaindermen beneficiaries with a description of the conditions on their entitlement sufficient to establish that the spouse is the sole beneficiary) for purposes of section 401(a)(9); certify that, to the best of the employee's knowledge, this list is correct and complete and that the requirements of paragraph (b)(1), (2), and (3) of A-5 of this section are satisfied; agree that, if the trust instrument is amended at any time in the future, the employee will, within a reasonable time, provide to the plan administrator corrected certifications to the extent that the amendment changes any information previously certified;

and agree to provide a copy of the trust instrument to the plan administrator upon demand.

(b) Required minimum distributions after death. In order to satisfy the documentation requirement of this A-6 for required minimum distributions after the death of the employee (or spouse in a case to which A-5 of §1.401(a)(9)-3 applies), by October 31 of the calendar year immediately following the calendar year in which the employee died, the trustee of the trust must either --

(1) Provide the plan administrator with a final list of all beneficiaries of the trust (including contingent and remaindermen beneficiaries with a description of the conditions on their entitlement) as of September 30 of the calendar year following the calendar year of the employee's death; certify that, to the best of the trustee's knowledge, this list is correct and complete and that the requirements of paragraph (b)(1), (2), and (3) of A-5 of this section are satisfied; and agree to provide a copy of the trust instrument to the plan administrator upon demand; or

(2) Provide the plan administrator with a copy of the actual trust document for the trust that is named as a beneficiary of the employee under the plan as of the employee's date of death.

(c) Relief for discrepancy between trust instrument and employee certifications or earlier trust instruments. (1) If required minimum distributions are determined based on the information provided to the plan administrator in certifications or trust instruments described in paragraph (a) or (b) of this A-6, a plan will not fail to satisfy section 401(a)(9) merely because the actual terms of the trust instrument are inconsistent with the information in those certifications or trust instruments previously provided to the plan administrator, but only if the plan administrator reasonably relied on the information provided and the required minimum distributions for calendar years after the calendar year in which the discrepancy is discovered are determined based on the actual terms of the trust instrument.

(2) For purposes of determining the amount of the excise tax under section 4974, the required minimum distribution is determined for any year based on the actual terms of the trust in effect during the year.

§1.401(a)(9)-5 Required minimum distributions from defined contribution plans.

Q-1. If an employee's benefit is in the form of an individual account under a defined contribution plan, what is the amount required to be distributed for each calendar year?

A-1. (a) General rule. If an employee's accrued benefit is in the form of an individual account under a defined contribution plan, the minimum amount required to be distributed for each distribution calendar year, as defined in paragraph (b) of this A-1, is equal to the quotient obtained by dividing the account (determined under A-3 of this section) by the applicable distribution period (determined under A-4 or A-5 of this section, whichever is applicable). However, the required minimum distribution amount will never exceed the entire account balance on the date of the distribution. See A-8 of this section for rules that apply if a portion of the employee's account is not vested. Further, the minimum distribution required to be distributed on or before an employee's required beginning date is always determined under section 401(a)(9)(A)(ii) and this A-1 and not section 401(a)(9)(A)(i).

(b) Distribution calendar year. A calendar year for which a minimum distribution is required is a distribution calendar year. If an employee's required beginning date is April 1 of the calendar year following the calendar year in which the employee attains age 70 1/2, the employee's first distribution calendar year is the year the employee attains age 70 1/2. If an employee's required beginning date is April 1 of the calendar year following the calendar year in which the employee retires, the employee's first distribution calendar year is the calendar year in which the employee retires. In the case of distributions to be made in accordance with the life expectancy rule in §1.401(a)(9)-3 and in section 401(a)(9)(B)(iii) and (iv), the

first distribution calendar year is the calendar year containing the date described in A-3(a) or A-3(b) of §1.401(a)(9)-3, whichever is applicable.

(c) Time for distributions. The distribution required to be made on or before the employee's required beginning date shall be treated as the distribution required for the employee's first distribution calendar year (as defined in paragraph (b) of this A-1). The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the employee's required beginning date occurs, must be made on or before the end of that distribution calendar year.

(d) Minimum distribution incidental benefit requirement. If distributions of an employee's account balance under a defined contribution plan are made in accordance with this section, the minimum distribution incidental benefit requirement of section 401(a)(9)(G) is satisfied. Further, with respect to the retirement benefits provided by that account balance, to the extent the incidental benefit requirement of §1.401-1(b)(1)(i) requires a distribution, that requirement is deemed to be satisfied if distributions satisfy the minimum distribution incidental benefit requirement of section 401(a)(9)(G) and this section.

(e) Annuity contracts. Instead of satisfying this A-1, the minimum distribution requirement may be satisfied by the purchase of an annuity contract from an insurance company in accordance with A-4 of §1.401(a)(9)-6T with the employee's entire individual account. If such an annuity is purchased after distributions are required to commence (the required beginning date, in the case of distributions commencing before death, or the date determined under A-3 of §1.401(a)(9)-3, in the case of distributions commencing after death), payments under the annuity contract purchased will satisfy section 401(a)(9) for distribution calendar years after the calendar year of the purchase if payments under the annuity contract are made in accordance with §1.401(a)(9)-6T. In such a case, payments under the annuity contract will be treated as distributions from the

individual account for purposes of determining if the individual account satisfies section 401(a)(9) for the calendar year of the purchase. An employee may also purchase an annuity contract with a portion of the employee's account under the rules of A-2(a)(3) of §1.401(a)(9)-8.

Q-2. If an employee's benefit is in the form of an individual account and, in any calendar year, the amount distributed exceeds the minimum required, will credit be given in subsequent calendar years for such excess distribution?

A-2. If, for any distribution calendar year, the amount distributed exceeds the minimum required, no credit will be given in subsequent calendar years for such excess distribution.

Q-3. What is the amount of the account of an employee used for determining the employee's required minimum distribution in the case of an individual account?

A-3. (a) In the case of an individual account, the benefit used in determining the required minimum distribution for a distribution calendar year is the account balance as of the last valuation date in the calendar year immediately preceding that distribution calendar year (valuation calendar year) adjusted in accordance with paragraphs (b) and (c) of this A-3.

(b) The account balance is increased by the amount of any contributions or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date. For this purpose, contributions that are allocated to the account balance as of dates in the valuation calendar year after the valuation date, but that are not actually made during the valuation calendar year, are permitted to be excluded.

(c) The account balance is decreased by distributions made in the valuation calendar year after the valuation date.

(d) If an amount is distributed by one plan and rolled over to another plan (receiving plan), A-2 of §1.401(a)(9)-7 provides additional rules for determining the benefit and required minimum distribution under the receiving plan. If an amount is transferred from one plan (transferor plan) to another plan (transferee plan), A-3 and A-4 of §1.401(a)(9)-7 provide additional rules for determining the amount of the required minimum distribution and the benefit under both the transferor and transferee plans.

Q-4. For required minimum distributions during an employee's lifetime, what is the applicable distribution period?

A-4. (a) General rule. Except as provided in paragraph (b) of this A-4, the applicable distribution period for required minimum distributions for distribution calendar years up to and including the distribution calendar year that includes the employee's date of death is determined using the Uniform Lifetime Table in A-2 of §1.401(a)(9)-9 for the employee's age as of the employee's birthday in the relevant distribution calendar year. If an employee dies on or after the required beginning date, the distribution period applicable for calculating the amount that must be distributed during the distribution calendar year that includes the employee's death is determined as if the employee had lived throughout that year. Thus, a minimum required distribution, determined as if the employee had lived throughout that year, is required for the year of the employee's death and that amount must be distributed to a beneficiary to the extent it has not already been distributed to the employee.

(b) Spouse is sole beneficiary -- (1) General rule. Except as otherwise provided in paragraph (b)(2) of this A-4, if the sole designated beneficiary of an employee is the employee's surviving spouse, for required minimum distributions during the employee's lifetime, the applicable distribution period is the longer of the distribution period determined in accordance with paragraph (a) of this A-4 or the joint life expectancy of the employee and spouse using the employee's and

spouse's attained ages as of the employee's and the spouse's birthdays in the distribution calendar year. The spouse is sole designated beneficiary for purposes of determining the applicable distribution period for a distribution calendar year during the employee's lifetime only if the spouse is the sole beneficiary of the employee's entire interest at all times during the distribution calendar year.

(2) Change in marital status. If the employee and the employee's spouse are married on January 1 of a distribution calendar year, but do not remain married throughout that year (i.e., the employee or the employee's spouse die or they become divorced during that year), the employee will not fail to have a spouse as the employee's sole beneficiary for that year merely because they are not married throughout that year. If an employee's spouse predeceases the employee, the spouse will not fail to be the employee's sole beneficiary for the distribution calendar year that includes the date of the spouse's death solely because, for the period remaining in that year after the spouse's death, someone other than the spouse is named as beneficiary. However, the change in beneficiary due to the death or divorce of the spouse will be effective for purposes of determining the applicable distribution period under section 401(a)(9) in the distribution calendar year following the distribution calendar year that includes the date of the spouse's death or divorce.

Q-5. For required minimum distributions after an employee's death, what is the applicable distribution period?

A-5. (a) Death on or after the employee's required beginning date. If an employee dies after distribution has begun as determined under A-6 of §1.401(a)(9)-2 (generally on or after the employee's required beginning date), in order to satisfy section 401(a)(9)(B)(i), the applicable distribution period for distribution calendar years after the distribution calendar year containing the employee's date of death is either --

(1) If the employee has a designated beneficiary as of the date determined under A-4 of §1.401(a)(9)-4, the longer of --

(i) The remaining life expectancy of the employee's designated beneficiary determined in accordance with paragraph (c)(1) or (2) of this A-5; and

(ii) The remaining life expectancy of the employee determined in accordance with paragraph (c)(3) of this A-5; or

(2) If the employee does not have a designated beneficiary as of the date determined under A-4 of §1.401(a)(9)-4, the remaining life expectancy of the employee determined in accordance with paragraph (c)(3) of this A-5.

(b) Death before an employee's required beginning date. If an employee dies before distribution has begun, as determined under A-5 of §1.401(a)(9)-2 (generally before the employee's required beginning date), in order to satisfy section 401(a)(9)(B)(iii) or (iv) and the life expectancy rule described in A-1 of §1.401(a)(9)-3, the applicable distribution period for distribution calendar years after the distribution calendar year containing the employee's date of death is determined in accordance with paragraph (c) of this A-5. See A-4 of §1.401(a)(9)-3 to determine when the 5-year rule of in section 401(a)(9)(B)(ii) applies (e.g., there is no designated beneficiary or the 5-year rule is elected or specified by plan provision).

(c) Life expectancy -- (1) Nonspouse designated beneficiary. Except as otherwise provided in paragraph (c)(2), the applicable distribution period measured by the beneficiary's remaining life expectancy is determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the employee's death. In subsequent calendar years, the applicable distribution period is reduced by one for each calendar year that has elapsed after the calendar year immediately following the calendar year of the employee's death.

(2) Spouse designated beneficiary. If the surviving spouse of the employee is the employee's sole beneficiary, the applicable distribution period is measured by the surviving spouse's life expectancy using the surviving spouse's birthday for each distribution calendar year after the calendar year of the employee's death up through the calendar year of the spouse's death. For calendar years after the calendar year of the spouse's death, the applicable distribution period is the life expectancy of the spouse using the age of the spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each calendar year that has elapsed after the calendar year of the spouse's death.

(3) No designated beneficiary. If the employee does not have a designated beneficiary, the applicable distribution period measured by the employee's remaining life expectancy is the life expectancy of the employee using the age of the employee as of the employee's birthday in the calendar year of the employee's death. In subsequent calendar years the applicable distribution period is reduced by one for each calendar year that has elapsed after the calendar year of the employee's death.

Q-6. What life expectancies must be used for purposes of determining required minimum distributions under section 401(a)(9)?

A-6. Life expectancies for purposes of determining required minimum distributions under section 401(a)(9) must be computed using the Single Life Table in A-1 of §1.401(a)(9)-9 and the Joint and Last Survivor Table in A-3 of §1.401(a)(9)-9.

Q-7. If an employee has more than one designated beneficiary, which designated beneficiary's life expectancy will be used to determine the applicable distribution period?

A-7. (a) General rule -- (1) Except as otherwise provided in paragraph (c) of this A-7, if more than one individual is designated as a beneficiary with respect to an

employee as of the applicable date for determining the designated beneficiary under A-4 of §1.401(a)(9)-4, the designated beneficiary with the shortest life expectancy will be the designated beneficiary for purposes of determining the applicable distribution period.

(2) See A-3 of §1.401(a)(9)-4 for rules that apply if a person other than an individual is designated as a beneficiary and see A-2 and A-3 of §1.401(a)(9)-8 for special rules that apply if an employee's benefit under a plan is divided into separate accounts and the beneficiaries with respect to a separate account differ from the beneficiaries of another separate account.

(b) Contingent beneficiary. Except as provided in paragraph (c)(1) of this A-7, if a beneficiary's entitlement to an employee's benefit after the employee's death is a contingent right, such contingent beneficiary is nevertheless considered to be a beneficiary for purposes of determining whether a person other than an individual is designated as a beneficiary (resulting in the employee being treated as having no designated beneficiary under the rules of A-3 of §1.401(a)(9)-4) and which designated beneficiary has the shortest life expectancy under paragraph (a) of this A-7.

(c) Successor beneficiary -- (1) A person will not be considered a beneficiary for purposes of determining who is the beneficiary with the shortest life expectancy under paragraph (a) of this A-7, or whether a person who is not an individual is a beneficiary, merely because the person could become the successor to the interest of one of the employee's beneficiaries after that beneficiary's death. However, the preceding sentence does not apply to a person who has any right (including a contingent right) to an employee's benefit beyond being a mere potential successor to the interest of one of the employee's beneficiaries upon that beneficiary's death. Thus, for example, if the first beneficiary has a right to all income with respect to an employee's individual account during that beneficiary's life and a second beneficiary has a right to the principal but only after the death

of the first income beneficiary (any portion of the principal distributed during the life of the first income beneficiary to be held in trust until that first beneficiary's death), both beneficiaries must be taken into account in determining the beneficiary with the shortest life expectancy and whether only individuals are beneficiaries.

(2) If the individual beneficiary whose life expectancy is being used to calculate the distribution period dies after September 30 of the calendar year following the calendar year of the employee's death, such beneficiary's remaining life expectancy will be used to determine the distribution period without regard to the life expectancy of the subsequent beneficiary.

(3) This paragraph (c) is illustrated by the following examples:

Example 1. (i) Employer M maintains a defined contribution plan, Plan X. Employee A, an employee of M, died in 2005 at the age of 55, survived by spouse, B, who was 50 years old. Prior to A's death, M had established an account balance for A in Plan X. A's account balance is invested only in productive assets. A named a testamentary trust (Trust P) established under A's will as the beneficiary of all amounts payable from A's account in Plan X after A's death. A copy of the Trust P and a list of the trust beneficiaries were provided to the plan administrator of Plan X by October 31 of the calendar year following the calendar year of A's death. As of the date of A's death, the Trust P was irrevocable and was a valid trust under the laws of the state of A's domicile. A's account balance in Plan X was includible in A's gross estate under § 2039.

(ii) Under the terms of Trust P, all trust income is payable annually to B, and no one has the power to appoint Trust P principal to any person other than B. A's children, who are all younger than B, are the sole remainder beneficiaries of the Trust P. No other person has a beneficial interest in Trust P. Under the terms of the Trust P, B has the power, exercisable annually, to compel the trustee to withdraw from A's account balance in Plan X an amount equal to the income

earned on the assets held in A's account in Plan X during the calendar year and to distribute that amount through Trust P to B. Plan X contains no prohibition on withdrawal from A's account of amounts in excess of the annual required minimum distributions under section 401(a)(9). In accordance with the terms of Plan X, the trustee of Trust P elects, in order to satisfy section 401(a)(9), to receive annual required minimum distributions using the life expectancy rule in section 401(a)(9)(B)(iii) for distributions over a distribution period equal to B's life expectancy. If B exercises the withdrawal power, the trustee must withdraw from A's account under Plan X the greater of the amount of income earned in the account during the calendar year or the required minimum distribution. However, under the terms of Trust P, and applicable state law, only the portion of the Plan X distribution received by the trustee equal to the income earned by A's account in Plan X is required to be distributed to B (along with any other trust income.)

(iii) Because some amounts distributed from A's account in Plan X to Trust P may be accumulated in Trust P during B's lifetime for the benefit of A's children, as remaindermen beneficiaries of Trust P, even though access to those amounts are delayed until after B's death, A's children are beneficiaries of A's account in Plan X in addition to B and B is not the sole designated beneficiary of A's account. Thus the designated beneficiary used to determine the distribution period from A's account in Plan X is the beneficiary with the shortest life expectancy. B's life expectancy is the shortest of all the potential beneficiaries of the testamentary trust's interest in A's account in Plan X (including remainder beneficiaries). Thus, the distribution period for purposes of section 401(a)(9)(B)(iii) is B's life expectancy. Because B is not the sole designated beneficiary of the testamentary trust's interest in A's account in Plan X, the special rule in 401(a)(9)(B)(iv) is not available and the annual required minimum distributions from the account to Trust M must begin no later than the end of the calendar year immediately following the calendar year of A's death.

Example 2. (i) The facts are the same as Example 1 except that the testamentary trust instrument provides that all amounts distributed from A's account in Plan X to the trustee while B is alive will be paid directly to B upon receipt by the trustee of Trust P.

(ii) In this case, B is the sole designated beneficiary of A's account in Plan X for purposes of determining the designated beneficiary under section 401(a)(9)(B)(iii) and (iv). No amounts distributed from A's account in Plan X to Trust P are accumulated in Trust P during B's lifetime for the benefit of any other beneficiary. Therefore, the residuary beneficiaries of Trust P are mere potential successors to B's interest in Plan X. Because B is the sole beneficiary of the testamentary trust's interest in A's account in Plan X, the annual required minimum distributions from A's account to Trust P must begin no later than the end of the calendar year in which A would have attained age 70 1/2, rather than the calendar year immediately following the calendar year of A's death.

Q-8. If a portion of an employee's individual account is not vested as of the employee's required beginning date, how is the determination of the required minimum distribution affected?

A-8. If the employee's benefit is in the form of an individual account, the benefit used to determine the required minimum distribution for any distribution calendar year will be determined in accordance with A-1 of this section without regard to whether or not all of the employee's benefit is vested. If any portion of the employee's benefit is not vested, distributions will be treated as being paid from the vested portion of the benefit first. If, as of the end of a distribution calendar year (or as of the employee's required beginning date, in the case of the employee's first distribution calendar year), the total amount of the employee's vested benefit is less than the required minimum distribution for the calendar year, only the vested portion, if any, of the employee's benefit is required to be distributed by the end of the calendar year (or, if applicable, by the employee's

required beginning date). However, the required minimum distribution for the subsequent distribution calendar year must be increased by the sum of amounts not distributed in prior calendar years because the employee's vested benefit was less than the required minimum distribution.

Q-9. Which amounts distributed from an individual account are taken into account in determining whether section 401(a)(9) is satisfied and which amounts are not taken into account in determining whether section 401(a)(9) is satisfied?

A-9. (a) General rule. Except as provided in paragraph (b), all amounts distributed from an individual account are distributions that are taken into account in determining whether section 401(a)(9) is satisfied, regardless of whether the amount is includible in income. Thus, for example, amounts that are excluded from income as recovery of investment in the contract under section 72 are taken into account for purposes of determining whether section 401(a)(9) is satisfied for a distribution calendar year. Similarly, amounts excluded from income as net unrealized appreciation on employer securities also are amounts distributed for purposes of determining if section 401(a)(9) is satisfied.

(b) Exceptions. The following amounts are not taken into account in determining whether the required minimum amount has been distributed for a calendar year:

(1) Elective deferrals and employee contributions that, pursuant to §1.415-6(b)(6)(iv), are returned (together with the income allocable to these corrective distributions) as a result of the application of the section 415 limitations.

(2) Corrective distributions of excess deferrals as described in §1.402(g)-1(e)(3), together with the income allocable to these distributions.

(3) Corrective distributions of excess contributions under a qualified cash or deferred arrangement under section 401(k)(8) and excess aggregate

contributions under section 401(m)(6), together with the income allocable to these distributions.

(4) Loans that are treated as deemed distributions pursuant to section 72(p).

(5) Dividends described in section 404(k) that are paid on employer securities. (Amounts paid to the plan that, pursuant to section 404(k)(2)(A)(iii)(II), are included in the account balance and subsequently distributed from the account lose their character as dividends.)

(6) The costs of life insurance coverage (P.S. 58 costs).

(7) Similar items designated by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

§1.401(a)(9)-6T Required minimum distributions for defined benefit plans and annuity contracts (temporary).

Q-1. How must distributions under a defined benefit plan be paid in order to satisfy section 401(a)(9)?

A-1. (a) General rules. In order to satisfy section 401(a)(9), except as otherwise provided in this A-1, distributions under a defined benefit plan must be paid in the form of periodic annuity payments for the employee's life (or the joint lives of the employee and beneficiary) or over a period certain that does not exceed the maximum length of the period certain determined in accordance with A-3 of this section. The interval between payments for the annuity must be uniform over the entire distribution period and must not exceed one year. Once payments have commenced over a period certain, the period certain may not be changed even if the period certain is shorter than the maximum permitted. Life annuity payments must satisfy the minimum distribution incidental benefit requirements of A-2 of this section. Except as otherwise provided in A-4(b) of this section, all payments

(life and period certain) also must either be nonincreasing or increase only in accordance with one of more of the following:

(1) With an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(2) To the extent of the reduction in the amount of the employee's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the period described in section 401(a)(9)(A)(ii) over which payments were being made dies or is no longer the employee's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p);

(3) To provide cash refunds of employee contributions upon the employee's death; or

(4) To pay increased benefits that result from a plan amendment.

(b) Life annuity with period certain. The annuity may be a life annuity (or joint and survivor annuity) with a period certain if the life (or lives, if applicable) and period certain each meet the requirements of paragraph (a) of this A-1. For purposes of this section, if distributions are permitted to be made over the lives of the employee and the designated beneficiary, references to a life annuity include a joint and survivor annuity.

(c) Annuity commencement. (1) Annuity payments must commence on or before the employee's required beginning date (within the meaning of A-2 of §1.401(a)(9)-2). The first payment, which must be made on or before the employee's required beginning date, must be the payment which is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar

year. Similarly, in the case of distributions commencing after death in accordance with section 401(a)(9)(B)(iii) and (iv), the first payment, which must be made on or before the date determined under A- 3(a) or (b) (whichever is applicable) of §1.401(a)(9)-3, must be the payment which is required for one payment interval. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semi-annually, or annually. All benefit accruals as of the last day of the first distribution calendar year must be included in the calculation of the amount of annuity payments for payment intervals ending on or after the employee's required beginning date.

(2) This paragraph (c) is illustrated by the following example:

Example. A defined benefit plan (Plan X) provides monthly annuity payments of \$500 for the life of unmarried participants with a 10-year period certain. An unmarried, retired participant (A) in Plan X attains age 70 1/2 in 2005. In order to meet the requirements of this paragraph, the first monthly payment of \$500 must be made on behalf of A on or before April 1, 2006, and the payments must continue to be made in monthly payments of \$500 thereafter for the life and 10-year period certain.

(d) Lump sum distributions. In the case of a lump sum distribution of an employee's entire accrued benefit during a distribution calendar year, the amount that is the required minimum distribution for the distribution calendar year (and thus not eligible for rollover under section 402(c)) is determined using either the rule in paragraph (d)(1) or (d)(2) of this A-1.

(1) The portion of the single sum distribution that is a required minimum distribution is determined by treating the single sum distribution as a distribution from an individual account plan and treating the amount of the single sum distribution as the employee's account balance as of the end of the relevant valuation calendar year. If the single sum distribution is being made in the calendar year containing the required beginning date and the required minimum

distribution for the employee's first distribution calendar year has not been distributed, the portion of the single sum distribution that represents the required minimum distribution for the employee's first and second distribution calendar years is not eligible for rollover.

(2) The portion of the single sum distribution that is a required minimum distribution is permitted to be determined by expressing the employee's benefit as an annuity that would satisfy this section with an annuity starting date as of the first day of the distribution calendar year for which the required minimum distribution is being determined, and treating one year of annuity payments as the required minimum distribution for that year, and not eligible for rollover. If the single sum distribution is being made in the calendar year containing the required beginning date and the required minimum distribution for the employee's first distribution calendar year has not been made, the benefit must be expressed as an annuity with an annuity starting date as of the first day of the first distribution calendar year and the payments for the first two calendar years would be treated as required minimum distributions, and not eligible for rollover.

(e) Death benefits. The rules prohibiting increasing payments under an annuity apply to payments made upon the death of the employee. The preceding sentence will not apply to an increase due to an ancillary death benefit described in this paragraph (e). A death benefit with respect to an employee's benefit is an ancillary death benefit for purposes of this A-1 if --

(1) It is not paid as part of the employee's accrued benefit or under any optional form of the employee's benefit, and

(2) The death benefit, together with any other potential payments with respect to the employee's benefit that may be provided to a survivor, satisfy the incidental benefit requirement of §1.401-1(b)(1)(i),

(f) Additional guidance. Additional guidance regarding how distributions under a defined benefit plan must be paid in order to satisfy section 401(a)(9) may be issued by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

Q-2. How must distributions in the form of a life (or joint and survivor) annuity be made in order to satisfy the minimum distribution incidental benefit (MDIB) requirement of section 401(a)(9)(G) and the distribution component of the incidental benefit requirement of §1.401-1(b)(1)(i)?

A-2. (a) Life annuity for employee. If the employee's benefit is payable in the form of a life annuity for the life of the employee satisfying section 401(a)(9) without regard to the MDIB requirement, the MDIB requirement of section 401(a)(9)(G) will be satisfied.

(b) Joint and survivor annuity, spouse beneficiary. If the employee's sole beneficiary, as of the annuity starting date for annuity payments, is the employee's spouse and the distributions satisfy section 401(a)(9) without regard to the MDIB requirement, the distributions to the employee will be deemed to satisfy the MDIB requirement of section 401(a)(9)(G). For example, if an employee's benefit is being distributed in the form of a joint and survivor annuity for the lives of the employee and the employee's spouse and the spouse is the sole beneficiary of the employee, the amount of the periodic payment payable to the spouse is permitted to be 100 percent of the annuity payment payable to the employee regardless of the difference in the ages between the employee and the employee's spouse. The amount of the annuity payments must satisfy A-1 of this section (or A-4 of this section, if applicable).

(c) Joint and survivor annuity, nonspouse beneficiary -- (1) Explanation of rule. If distributions commence under a distribution option that is in the form of a joint and survivor annuity for the joint lives of the employee and a beneficiary other

than the employee's spouse, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless the distribution option provides that annuity payments to be made to the employee on and after the employee's required beginning date will satisfy the conditions of this paragraph (c). The periodic annuity payment payable to the survivor must not at any time on and after the employee's required beginning date exceed the applicable percentage of the annuity payment payable to the employee using the table in paragraph (c)(2) of this A-2. The applicable percentage is based on the excess of the age of the employee on the employee's birthday in a calendar year over the age of the beneficiary as of the beneficiary's birthday in that calendar year. Additionally, the amount of the annuity payments must satisfy A-1 of this section (or A-4 of this section, if applicable). In the case of an annuity which provides for increasing payments, the requirement of this paragraph (c) will be satisfied if the increase is determined in the same manner for the employee and the beneficiary.

(2) Table.

Excess of age of employee over age of beneficiary	Applicable percentage
10 years or less	100%
11	96%
12	93%
13	90%
14	87%
15	84%
16	82%
17	79%
18	77%
19	75%
20	73%
21	72%
22	70%

23	68%
24	67%
25	66%
26	64%
27	63%
28	62%
29	61%
30	60%
31	59%
32	59%
33	58%
34	57%
35	56%
36	56%
37	55%
38	55%
39	54%
40	54%
41	53%
42	53%
43	53%
44 and greater	52%

(3) Example. This paragraph (c) is illustrated by the following example:

Example. Distributions commence on January 1, 2003 to an employee (Z), born March 1, 1937, after retirement at age 65. Z's daughter (Y), born February 5, 1967, is Z's beneficiary. The distributions are in the form of a joint and survivor annuity for the lives of Z and Y with payments of \$500 a month to Z and upon Z's death of \$500 a month to Y, i.e., the projected monthly payment to Y is 100 percent of the monthly amount payable to Z. There is no provision under the option for a change in the projected payments to Y, and corresponding increase to Z, as of April 1, 2008, Z's required beginning date. Accordingly, under A-10 of this section, compliance with the rules of this section is determined as of the

annuity starting date. Consequently, as of January 1, 2003 (the annuity starting date) the plan does not satisfy the MDIB requirement because, as of such date, the distribution option provides that, as of Z's required beginning date, the monthly payment to Y upon Z's death will exceed 60 percent of Z's monthly payment (the maximum percentage for a difference of ages of 30 years).

(d) Period certain and annuity features. If a distribution form includes a life annuity and a period certain, the amount of the annuity payments payable to the beneficiary need not be reduced during the period certain, but in the case of a joint and survivor annuity with a period certain, the amount of the annuity payments payable to the beneficiary must satisfy paragraph (c) of this A-2 after the expiration of the period certain.

(e) Deemed satisfaction of incidental benefit rule. Except in the case of distributions with respect to an employee's benefit that include an ancillary death benefit described in paragraph A-1(e) of this section, to the extent the incidental benefit requirement of §1.401-1(b)(1)(i) requires a distribution, that requirement is deemed to be satisfied if distributions satisfy the minimum distribution incidental benefit requirement of this A-2. If the employee's benefits include an ancillary death benefit described in paragraph A-1(e) of this section, the benefits must be distributed in accordance with the incidental benefit requirement described in §1.401-1(b)(1)(i) and must also satisfy the minimum distribution incidental benefit requirement of this A-2.

Q-3. How long is a period certain under a defined benefit plan permitted to extend?

A-3. (a) Distributions commencing during the employee's life. The period certain for any annuity distributions commencing during the life of the employee with an annuity starting date on or after the employee's required beginning date generally is not permitted to exceed the applicable distribution period for the employee (determined in accordance with the Uniform Lifetime Table in A-2 of

§1.401(a)(9)-9) for the calendar year that contains the annuity starting date. See A-10 for the rule for annuity payments with an annuity starting date before the required beginning date. However, if the employee's sole beneficiary is the employee's spouse and the annuity provides only a period certain and no life annuity, the period certain is permitted to be as long as the joint life and last survivor expectancy of the employee and the employee's spouse, if longer than the applicable distribution period for the employee.

(b) Distributions commencing after the employee's death. (1) If annuity distributions commence after the death of the employee under the life expectancy rule (under section 401(a)(9)(B)(iii) or (iv)), the period certain for any distributions commencing after death cannot exceed the applicable distribution period determined under A-5(b) of §1.401(a)(9)-5 for the distribution calendar year that contains the annuity starting date.

(2) If the annuity starting date is in a calendar year before the first distribution calendar year, the period certain may not exceed the life expectancy of the designated beneficiary using the beneficiary's age in the year that contains the annuity starting date.

Q-4. Will a plan fail to satisfy section 401(a)(9) merely because distributions are made from an annuity contract which is purchased from an insurance company?

A-4. (a) General rule. A plan will not fail to satisfy section 401(a)(9) merely because distributions are made from an annuity contract which is purchased with the employee's benefit by the plan from an insurance company, as long as the payments satisfy the requirements of this section. If the annuity contract is purchased after the required beginning date, the first payment interval must begin on or before the purchase date and the payment required for one payment interval must be made no later than the end of such payment interval. If the payments actually made under the annuity contract do not meet the requirements of section 401(a)(9), the plan fails to satisfy section 401(a)(9).

(b) Permitted increases. In the case of an annuity contract purchased from an insurance company with an employee's account balance under a defined contribution plan or under a section 403(a) annuity plan, if the total future expected payments (determined in accordance with paragraph (c)(3) of this A-4) exceed the account value being annuitized, the payments under the annuity will not fail to satisfy the nonincreasing payment requirement in A- 1(a) of this section merely because the payments are increased in accordance with one or more of the following --

- (1) By a constant percentage, applied not less frequently than annually;
- (2) To provide a payment upon the death of the employee equal to the excess of the account value being annuitized over the total of payments before the death of the employee.
- (3) As a result of dividend payments or other payments that result from actuarial gains, but only if actuarial gain is measured no less frequently than annually and the resulting dividend payments or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the annuity (beginning no later than the year following the year for which the actuarial experience is measured);
- (4) As a final payment under the annuity contract, but only if the payment does not exceed the total future expected payments as of the date of the payment; or
- (5) As a partial distribution under the contract, but only if the contract provides for a final payment as of the date of partial distribution that satisfies paragraph (b)(4) of this A-4 and the future payments under the contract are reduced by multiplying the otherwise applicable future payments by a fraction, the numerator of which is the excess of that final payment over the amount of the partial distribution and the denominator of which is the amount of that final payment. For the purpose of

determining this ratio, the denominator is reduced by the amount of any regularly scheduled payment due on the date of the partial distribution.

(c) Definitions. For purposes of this A-4, the following definitions apply --

(1) Account value being annuitized means the value of the employee's entire interest (within the meaning of A-12 of this section) being annuitized (valued as of the date annuity payments commence) or, in the case of a defined contribution plan, the value of the employee's account balance used to purchase an immediate annuity under the contract.

(2) Actuarial gain means the difference between the actuarial assumptions used in pricing (i.e., investment return, mortality, expense, and other similar assumptions) and the actual experience with respect to those assumptions. Actuarial gain also includes differences between the actuarial assumptions used in pricing when an annuity was purchased and actuarial assumptions used in pricing annuities at the time the actuarial gain is determined.

(3) Total future expected payments means the total future payments to be made under the annuity contract as of the date of the determination, calculated using the Single Life Table in A-1 of §1.401(a)(9)-9 (or, if applicable, the Joint and Last Survivor Table in A-3 of in §1.401(a)(9)-9) for annuitants who are still alive, without regard to any increases in annuity payments after the date of determination, and taking into account any remaining period certain.

(d) Examples. This A-4 is illustrated by the following examples:

Example 1. A participant (Z1) in defined contribution plan X attains age 70 on March 5, 2005, and thus, attains age 70 1/2 in 2005. Z1 elects to purchase annuity Contract Y1 from Insurance Company W in 2005. Contract Y1 is a life annuity contract with a 10- year period certain. Contract Y1 provides for an initial annual payment calculated with an assumed interest rate (AIR) of 3 percent.

Subsequent payments are determined by multiplying the prior year's payment by a fraction the numerator of which is 1 plus the actual return on the separate account assets underlying Contract Y1 since the preceding payment and the denominator of which is 1 plus the AIR during that period. The value of Z1's account balance in Plan X at the time of purchase is \$105,000, and the purchase price of Contract Y1 is \$105,000. Contract Y1 provides Z1 with an initial payment of \$7,200 at the time of purchase in 2005. The total future expected payments to Z1 under Contract Y1 are \$122,400, calculated as the initial payment of \$7,200 multiplied by the age 70 life expectancy of 17. Because the total future expected payments on the purchase date exceed the account value used to purchase Contract Y1 and payments may only increase as a result of actuarial gain, with such increases, beginning no later than the next year, paid in the same form as the payment of the annuity over the remaining period of the annuity, distributions received by Z1 from Contract Y1 meet the requirements under paragraph (b)(3) of this A-4.

Example 2. A participant (Z2) in defined contribution plan X attains age 70 on May 1, 2005, and thus, attains age 70 1/2 in 2005. Z2 elects to purchase annuity Contract Y2 from Insurance Company W in 2005. Contract Y2 is a participating life annuity contract with a 10-year period certain. Contract Y2 provides for level annual payments with dividends paid in a lump sum in the year after the year for which the actuarial experience is measured or paid out levelly beginning in the year after the year for which the actuarial gain is measured over the remaining lifetime and period certain, i.e., the period certain ends at the same time as the original period certain. Dividends are determined annually by the Board of Directors of Company W based upon a comparison of actual actuarial experience to expected actuarial experience in the past year. The value of Z2's account balance in Plan X at the time of purchase is \$265,000, and the purchase price of Contract Y2 is \$265,000. Contract Y2 provides Z2 with an initial payment of \$16,000 in 2005. The total future expected payments to Z2 under Contract Y2 are calculated as the annual initial payment of \$16,000 multiplied by the age 70

life expectancy of 17 for a total of \$272,000. Because the total future expected payments on the purchase date exceeds the account value used to purchase Contract Y2 and payments may only increase as a result of actuarial gain, with such increases, beginning no later than the next year, paid in the same form as the payment of the annuity over the remaining period of the annuity, distributions received by Z2 from Contract Y2 meet the requirements under paragraph (b)(3) of this A-4.

Example 3. The facts are the same as in Example 2 except that the annuity provides a dividend accumulation option under which Z2 may defer receipt of the dividends to a time selected by Z2. Because the dividend accumulation option permits dividends to be paid later than the end of the year following the year for which the actuarial experience is measured or as a stream of payments that only increase as a result of actuarial gain, with such increases beginning no later than the next year, paid in the same form as the payment of the annuity over the remaining period of the annuity in Example 2, the dividend accumulation option does not meet the requirements of paragraph (b)(3) of this A-4. Neither does the dividend accumulation option fit within any of the other increases described in paragraph (b) of this A-4. Accordingly, the dividend accumulation option causes the contract, and consequently any distributions from the contract, to fail to meet the requirements of this A-4 and thus fail to satisfy the requirements of section 401(a)(9).

Example 4. The facts are the same as in Example 2 except that the annuity provides an option under which actuarial gain under the contract is used to provide additional death benefit protection for Z2. Because this option permits payments as a result of actuarial gain to be paid later than the end of the year following the year for which the actuarial experience is measured or as a stream of payments that only increase as a result of actuarial gain, with such increases beginning no later than the next year, paid in the same form as the payment of the annuity over the remaining period of the annuity in Example 2, the option

does not meet the requirements of paragraph (b)(3) of this A-4. Neither does the option fit within any of the other increases described in paragraph (b) of this A-4. Accordingly, the addition of the option causes the contract, and consequently any distributions from the contract, to fail to meet the requirements of this A-4 and thus fail to satisfy the requirements of section 401(a)(9).

Example 5. A participant (Z3) in defined contribution plan X attains age 70 1/2 in 2005. Z3 elects to purchase annuity contract Y3 from Insurance Company W. Contract Y3 is a life annuity contract with a 20-year period certain (which does not exceed the maximum period certain permitted under A-3(a) of this section) with fixed annual payments increasing 3 percent each year. The value of Z3's account balance in Plan X at the time of purchase is \$110,000, and the purchase price of Contract Y3 is \$110,000. Contract Y3 provides Z3 with an initial payment of \$6,000 at the time of purchase in 2005. The total future expected payments to Z3 under Contract Y3 are \$120,000, calculated as the initial annual payment of \$6,000 multiplied by the period certain of 20 years. Because the total future expected payments on the purchase date exceed the account value used to purchase Contract Y3 and payments only increase as a constant percentage applied not less frequently than annually, distributions received by Z3 from Contract Y3 meet the requirements under paragraph (b)(1) of this A-4.

Example 6. The facts are the same as in Example 5 except that the initial payment is \$5,400 and the annual rate of increase is 4 percent. In this example, the total future expected payments are \$108,000, calculated as the initial payment of \$5,400 multiplied by the period certain of 20 years. Because the total future expected payments are less than the account value of \$110,000 used to purchase Contract Y3, distributions received by Z3 do not meet the requirements under paragraph (b) of this A-4 and thus fail to meet the requirements of section 401(a)(9).

Example 7. (i) A participant (Z4) in defined contribution Plan X attains age 78 in 2005. Z4 elects to purchase Contract Y4 from Insurance Company W. Contract Y4 provides for fixed annual payments for 20 years (which does not exceed the maximum period certain permitted under A-3(a) of this section) and provides that, on any payment date, before receiving his payment due on that date, Z4 may cancel Contract Y4 and receive as a final payment an amount equal to his remaining payments discounted with interest at 4 percent. The value of Z4's account balance in Plan X at the time of purchase is \$500,000, and the purchase price of Contract Y4 is \$500,000. Contract Y4 provides Z4 with an initial payment in 2005 of \$35,376.

(ii) Under Contract Y4, the amount that Z4 could receive upon cancellation of Contract Y4 as a final payment, for all possible cancellation dates, will always be less than the total future expected payments on such cancellation date. This is so because the total future expected payments on any such cancellation date is equal to the remaining payments on such date, not discounted, an amount always greater than the final payment amount of these same remaining payments, discounted at 4 percent.

(iii) The total future expected payments to Z4 under Y4 are \$707,520, calculated as the annualized initial payment of \$35,376 multiplied by the period certain of 20 years. Because the total future expected payments on the purchase date exceed the account value used to purchase Contract Y4 and it is not possible for a final payment under Contract Y4 to ever exceed the total future expected payments on the day of such final payment, distributions received by Z4 under Contract Y4 meet the requirements under paragraph (b)(4) of this A-4.

(iv) As an illustration of the above, if Participant Z4 were to elect to cancel Contract Y4 on the day he was due to receive his eleventh payment, his contractual final payment would be \$298,408 (including the \$35,376 he was due to receive on that day) which is less than his total future expected payments on

that date (\$353,760). These amounts are determined as follows. On the day Z4 was to receive his eleventh payment, Z4 was entitled to receive ten future payments of \$35,376 (including the payment he was due to receive on that day). The discounted value of an annuity of ten payments of \$35,376, with the first payment due on the date of the calculation of the discounted value, and a discount rate of 4 percent, is \$298,408. The product of the payment amount of \$35,376 multiplied by 10, the number of future payments to which Z4 would be entitled on the day Z4 was to receive the eleventh payment, is \$353,760.

Example 8. (i) The facts are the same as in Example 7 except that the annuity provides an option for partial distributions of less than the final payment amount (the maximum distribution), with payments following such a partial distribution reduced by multiplying the otherwise applicable future payments by a fraction, the numerator of which is the excess of the final payment amount over the amount of the partial distribution and the denominator of which is the amount of that final payment. For the purposes of determining this ratio, the denominator is reduced by the amount of any regularly scheduled payment due on the date of partial distribution. This partial distribution option meets the requirements of paragraph (b)(5) of this A-4.

(ii) To illustrate the workings of this partial distribution option, assume Z4 takes a distribution of \$100,000 on the date he was to receive his eleventh payment of \$35,376. In such a case, under this partial distribution option, his remaining nine payments, absent any other extraordinary distributions, will be reduced to \$26,685. This amount is determined as follows. The numerator of the ratio described in the paragraph above is equal to \$ 198,408 (that is, the excess of a total distribution of \$298,408 over the partial distribution of \$100,000). The denominator of the ratio described in the paragraph above is equal to \$263,032 (that is, the maximum distribution on the date of the partial distribution of \$298,408 (see Example 6) less the regularly scheduled payment of \$35,376). Thus, future payments must be multiplied by 75.43 percent (that is, \$198,408

divided by \$263,032). Thus, his future payments must be \$26,685 (that is, \$35,376 multiplied by 75.43 percent).

Example 9. (i) A participant (Z5) in defined contribution plan X attains age 70 1/2 in 2005. Z5 elects to purchase annuity Contract Y5 from Insurance Company W in 2005. Contract Y5 is a participating life annuity contract with a 20-year period certain. Contract Y5 provides an initial payment at the time of purchase of 5 percent of the purchase price, a second payment one year from the time of purchase of two percent of the purchase price, and 18 succeeding annual payments each increasing at a constant percentage rate of 16 percent from the preceding payment.

(ii) Contract Y5 fails to meet the requirements of paragraph (b) of this A-4, and thus fails to satisfy the requirements of section 401(a)(9), because the expected total payments without regard to any increases in the annuity payment is only 43 percent of the purchase price (that is, an amount not exceeding the account value used to purchase the annuity), calculated as 5 percent of the purchase price in year one and two percent of the purchase price in each of years two through twenty (or, .05 multiplied by 1 year plus .02 multiplied by 19 years).

Q-5. In the case of annuity distributions under a defined benefit plan, how must additional benefits that accrue after the employee's first distribution calendar year be distributed in order to satisfy section 401(a)(9)?

A-5. (a) In the case of annuity distributions under a defined benefit plan, if any additional benefits accrue in a calendar year after the employee's first distribution calendar year, distribution of the amount that accrues in a calendar year must commence in accordance with A-1 of this section beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(b) A plan will not fail to satisfy section 401(a)(9) merely because there is an administrative delay in the commencement of the distribution of the additional benefits accrued in a calendar year, provided that the actual payment of such amount commences as soon as practicable. However, payment must commence no later than the end of the first calendar year following the calendar year in which the additional benefit accrues, and the total amount paid during such first calendar year must be no less than the total amount that was required to be paid during that year under A-5(a) of this section.

Q-6. If a portion of an employee's benefit is not vested as of December 31 of a distribution calendar year, how is the determination of the required minimum distribution affected?

A-6 In the case of annuity distributions from a defined benefit plan, if any portion of the employee's benefit is not vested as of December 31 of a distribution calendar year, the portion that is not vested as of such date will be treated as not having accrued for purposes of determining the required minimum distribution for that distribution calendar year. When an additional portion of the employee's benefit becomes vested, such portion will be treated as an additional accrual. See A-5 of this section for the rules for distributing benefits which accrue under a defined benefit plan after the employee's first distribution calendar year.

Q-7. If an employee (other than a 5-percent owner) retires after the calendar year in which the employee attains age 70 1/2, for what period must the employee's accrued benefit under a defined benefit plan be actuarially increased?

A-7. (a) Actuarial increase starting date. If an employee (other than a 5-percent owner) retires after the calendar year in which the employee attains age 70 1/2, in order to satisfy section 401(a)(9)(C)(iii), the employee's accrued benefit under a defined benefit plan must be actuarially increased to take into account any period after age 70 1/2 in which the employee was not receiving any benefits under the plan. The actuarial increase required to satisfy section 401(a)(9)(C)(iii)

must be provided for the period starting on the April 1 following the calendar year in which the employee attains age 70 1/2, or January 1, 1997, if later.

(b) Actuarial increase ending date. The period for which the actuarial increase must be provided ends on the date on which benefits commence after retirement in an amount sufficient to satisfy section 401(a)(9).

(c) Nonapplication to plan providing same required beginning date for all employees. If, as permitted under A-2(e) of §1.401(a)(9)-2, a plan provides 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 the employee attains age 70 1/2 (regardless of whether the employee is a 5-percent owner) and the plan makes distributions in an amount sufficient to satisfy section 401(a)(9) using that required beginning date, no actuarial increase is required under section 401(a)(9)(C)(iii).

(d) Nonapplication to governmental and church plans. The actuarial increase required under this A-7 does not apply to 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)).

Q-8. What amount of actuarial increase is required under section 401(a)(9)(C)(iii)?

A-8. In order to satisfy section 401(a)(9)(C)(iii), the retirement benefits payable with respect to an employee as of the end of the period for actuarial increases (described in A-7 of this section) must be no less than: the actuarial equivalent of the employee's retirement benefits that would have been payable as of the date the actuarial increase must commence under paragraph (a) of A-7 of this section if benefits had commenced on that date; plus the actuarial equivalent of any

additional benefits accrued after that date; reduced by the actuarial equivalent of any distributions made with respect to the employee's retirement benefits after that date. Actuarial equivalence is determined using the plan's assumptions for determining actuarial equivalence for purposes of satisfying section 411.

Q-9. How does the actuarial increase required under section 401(a)(9)(C)(iii) relate to the actuarial increase required under section 411?

A-9. In order for any of an employee's accrued benefit to be nonforfeitable as required under section 411, a defined benefit plan must make an actuarial adjustment to an accrued benefit the payment of which is deferred past normal retirement age. The only exception to this rule is that generally no actuarial adjustment is required to reflect the period during which a benefit is suspended as permitted under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (ERISA). The actuarial increase required under section 401(a)(9)(C)(iii) for the period described in A-7 of this section is generally the same as, and not in addition to, the actuarial increase required for the same period under section 411 to reflect any delay in the payment of retirement benefits after normal retirement age. However, unlike the actuarial increase required under section 411, the actuarial increase required under section 401(a)(9)(C)(iii) must be provided even during any period during which an employee's benefit has been suspended in accordance with ERISA section 203(a)(3)(B).

Q-10. What rule applies if distributions commence to an employee on a date before the employee's required beginning date over a period permitted under section 401(a)(9)(A)(ii) and the distribution form is an annuity under which distributions are made in accordance with the provisions of A-1 (and if applicable A-4) of this section?

A-10. (a) General rule. If distributions commence to an employee on an irrevocable basis (except for acceleration) on a date before the employee's

required beginning date over a period permitted under section 401(a)(9)(A)(ii) and the distribution form is an annuity under which distributions are made in accordance with the provisions of A-1 (and, if applicable, A-4) of this section, the annuity starting date will be treated as the required beginning date for purposes of applying the rules of this section and §1.401(a)(9)-2. Thus, for example, the designated beneficiary distributions will be determined as of the annuity starting date. Similarly, if the employee dies after the annuity starting date but before the required beginning date determined under A-2 of §1.401(a)(9)-2, after the employee's death, the remaining portion of the employee's interest must continue to be distributed in accordance with this section over the remaining period over which distributions commenced (single or joint lives or period certain, as applicable). The rules in §1.401(a)(9)-3 and section 401(a)(9)(B)(ii) or (iii) and (iv) do not apply.

(b) Period certain. If as of the employee's birthday in the year that contains the annuity starting date, the age of the employee is under 70, the following rule applies in applying the rule in paragraph (a) of A-3 of this section. The applicable distribution period for the employee (determined in accordance with the Uniform Lifetime Table in A-2 of §1.401(a)(9)-9) is the distribution period for age 70 using the Uniform Lifetime Table in A-2 of §1.401(a)(9)-9 plus the excess of 70 over age of the employee as of the employee's birthday in the year that contains the annuity starting date.

Q-11. What rule applies if distributions commence on an irrevocable basis (except for acceleration) to the surviving spouse of an employee over a period permitted under section 401(a)(9)(B)(iii)(II) before the date on which distributions are required to commence and the distribution form is an annuity under which distributions are made as of the date distributions commence in accordance with the provisions of A-1 (and if applicable A-4) of this section.

A-11. If distributions commence to the surviving spouse of an employee on an irrevocable basis (except for acceleration) over a period permitted under section 401(a)(9)(B)(iii)(II) before the date on which distributions are required to commence and the distribution form is an annuity under which distributions are made as of the date distributions commence in accordance with the provisions of A-1 (and if applicable A-4) of this section, distributions will be considered to have begun on the actual commencement date for purposes of section 401(a)(9)(B)(iv)(II). Consequently, in such case, A-5 of §1.401(a)(9)-3 and section 401(a)(9)(B)(ii) and (iii) will not apply upon the death of the surviving spouse as though the surviving spouse were the employee. Instead, the annuity distributions must continue to be made, in accordance with the provisions of A-1 (and if applicable A-4) of this section over the remaining period over which distributions commenced (single life or period certain, as applicable).

Q-12. In the case of an annuity contract under an individual account plan from which annuity payments have not commenced to on an irrevocable basis (except for acceleration), how is section 401(a)(9) satisfied with respect to the employee's or beneficiary's entire interest under the annuity contract for the period prior to the date annuity payments so commence?

A-12. Prior to the date that annuity payments commence on an irrevocable basis (except for acceleration) under an individual account plan from an annuity contract, the interest of an employee or beneficiary under that contract is treated as an individual account for purposes of section 401(a)(9). Thus, the required minimum distribution for any year with respect to that interest is determined under §1.401(a)(9)-5 rather than this section. For purposes of applying the rules in §1.401(a)(9)-5, the entire interest under the annuity contract as of December 31 of the relevant valuation calendar year is treated as the account balance for the valuation calendar year described in A-3 of §1.401(a)(9)-5. The entire interest under an annuity contract is the dollar amount credited to the employee or beneficiary under the contract plus the actuarial value of any other benefits (such

as minimum survivor benefits) that will be provided under the contract. See A-1 of §1.401(a)(9)-5 for rules relating to the satisfaction of section 401(a)(9) in the year that annuity payments commence and A-2(a)(3) of §1.401(a)(9)-8.

§1.401(a)(9)-7 Rollovers and transfers.

Q-1. If an amount is distributed by one plan (distributing plan) and is rolled over to another plan, is the required minimum distribution under the distributing plan affected by the rollover?

A-1. No, if an amount is distributed by one plan and is rolled over to another plan, the amount distributed is still treated as a distribution by the distributing plan for purposes of section 401(a)(9), notwithstanding the rollover. See A-1 of §1.402(c)-2 for the definition of a rollover and A-7 of §1.402(c)-2 for rules for determining the portion of any distribution that is not eligible for rollover because it is a required minimum distribution.

Q-2. If an amount is distributed by one plan (distributing plan) and is rolled over to another plan (receiving plan), how are the benefit and the required minimum distribution under the receiving plan affected?

A-2. If an amount is distributed by one plan (distributing plan) and is rolled over to another plan (receiving plan), the benefit of the employee under the receiving plan is increased by the amount rolled over for purposes of determining the required minimum distribution for the calendar year immediately following the calendar year in which the amount rolled over is distributed. If the amount rolled over is received after the last valuation date in the calendar year under the receiving plan, the benefit of the employee as of such valuation date, adjusted in accordance with A-3 of §1.401(a)(9)-5, will be increased by the rollover amount valued as of the date of receipt. In addition, if the amount rolled over is received in a different calendar year from the calendar year in which it is distributed, the

amount rolled over is deemed to have been received by the receiving plan in the calendar year in which it was distributed.

Q-3. In the case of a transfer of an amount of an employee's benefit from one plan (transferor plan) to another plan (transferee plan), are there any special rules for satisfying section 401(a)(9) or determining the employee's benefit under the transferor plan?

A-3. (a) In the case of a transfer of an amount of an employee's benefit from one plan (transferor plan) to another (transferee plan), the transfer is not treated as a distribution by the transferor plan for purposes of section 401(a)(9). Instead, the benefit of the employee under the transferor plan is decreased by the amount transferred. However, if any portion of an employee's benefit is transferred in a distribution calendar year with respect to that employee, in order to satisfy section 401(a)(9), the transferor plan must determine the amount of the required minimum distribution with respect to that employee for the calendar year of the transfer using the employee's benefit under the transferor plan before the transfer. Additionally, if any portion of an employee's benefit is transferred in the employee's second distribution calendar year but on or before the employee's required beginning date, in order to satisfy section 401(a)(9), the transferor plan must determine the amount of the minimum distribution requirement for the employee's first distribution calendar year based on the employee's benefit under the transferor plan before the transfer. The transferor plan may satisfy the minimum distribution requirement for the calendar year of the transfer (and the prior year if applicable) by segregating the amount which must be distributed from the employee's benefit and not transferring that amount. Such amount may be retained by the transferor plan and must be distributed on or before the date required under section 401(a)(9).

(b) For purposes of determining any required minimum distribution for the calendar year immediately following the calendar year in which the transfer

occurs, in the case of a transfer after the last valuation date for the calendar year of the transfer under the transferor plan, the benefit of the employee as of such valuation date, adjusted in accordance with A-3 of §1.401(a)(9)-5, will be decreased by the amount transferred, valued as of the date of the transfer.

Q-4. If an amount of an employee's benefit is transferred from one plan (transferor plan) to another plan (transferee plan), how are the benefit and the required minimum distribution under the transferee plan affected?

A-4. In the case of a transfer from one plan (transferor plan) to another (transferee plan), the benefit of the employee under the transferee plan is increased by the amount transferred in the same manner as if it were a plan receiving a rollover contribution under A-2 of this section.

Q-5. How is a spinoff, merger or consolidation (as defined in §1.414(l)-1) treated for purposes of determining an employee's benefit and required minimum distribution under section 401(a)(9)?

A-5. For purposes of determining an employee's benefit and required minimum distribution under section 401(a)(9), a spinoff, a merger, or a consolidation (as defined in §1.414(l)-1) will be treated as a transfer of the benefits of the employees involved. Consequently, the benefit and required minimum distribution of each employee involved under the transferor and transferee plans will be determined in accordance with A-3 and A-4 of this section.

§1.401(a)(9)-8 Special rules.

Q-1. What distribution rules apply if an employee is a participant in more than one plan?

A-1. If an employee is a participant in more than one plan, the plans in which the employee participates are not permitted to be aggregated for purposes of testing whether the distribution requirements of section 401(a)(9) are met. The

distribution of the benefit of the employee under each plan must separately meet the requirements of section 401(a)(9). For this purpose, a plan described in section 414(k) is treated as two separate plans, a defined contribution plan to the extent benefits are based on an individual account and a defined benefit plan with respect to the remaining benefits.

Q-2. If an employee's benefit under a defined contribution plan is divided into separate accounts (or under a defined benefit plan is divided into segregated shares), do the distribution rules in section 401(a)(9) and these regulations apply separately to each separate account?

A-2. (a) Defined contribution plan. (1) Except as otherwise provided in this A-2, if an employee's benefit under a defined contribution plan is divided into separate accounts under the plan, the separate accounts will be aggregated for purposes of satisfying the rules in section 401(a)(9). Thus, except as otherwise provided in this A-2, all separate accounts, including a separate account for employee contributions under section 72(d)(2), will be aggregated for purposes of section 401(a)(9).

(2) If the employee's benefit in a defined contribution plan is divided into separate accounts and the beneficiaries with respect to one separate account differ from the beneficiaries with respect to the other separate accounts of the employee under the plan, for years subsequent to the calendar year containing the date on which the separate accounts were established, or date of death if later, such separate account under the plan is not aggregated with the other separate accounts under the plan in order to determine whether the distributions from such separate account under the plan satisfy section 401(a)(9). Instead, the rules in section 401(a)(9) separately apply to such separate account under the plan. However, the applicable distribution period for each such separate account is determined disregarding the other beneficiaries of the employee's benefit only if the separate account is established on a date no later than the last day of the

year following the calendar year of the employee's death. For example, if, in the case of a distribution described in section 401(a)(9)(B)(iii) and (iv), the only beneficiary of a separate account under the plan established on a date no later than the end of the year following the calendar year of the employee's death is the employee's surviving spouse, and beneficiaries other than the surviving spouse are designated with respect to the other separate accounts with respect to the employee, distribution of the spouse's separate account under the plan need not commence until the date determined under the first sentence in A-3(b) of §1.401(a)(9)-3, even if distribution of the other separate accounts under the plan must commence at an earlier date. Similarly, in the case of a distribution after the death of an employee to which section 401(a)(9)(B)(i) does not apply, distribution from a separate account of an employee established on a date no later than the end of the year following the year of the employee's death may be made over a beneficiary's life expectancy in accordance with section 401(a)(9)(B)(iii) and (iv) even though distributions from other separate accounts under the plan with different beneficiaries are being made in accordance with the 5-year rule in section 401(a)(9)(B)(ii).

(3) A portion of an employee's account balance under a defined contribution plan is permitted to be used to purchase an annuity contract while another portion stays in the account. In that case, the remaining account under the plan must be distributed in accordance with §1.401(a)(9)-5 in order to satisfy section 401(a)(9) and the annuity payments under the annuity contract must satisfy §1.401(a)(9)-6T in order to satisfy section 401(a)(9).

(b) Defined benefit plan. The rules of paragraph (a)(2) and (3) of this A-2 also apply to benefits under a defined benefit plan where the benefits under the plan are separated into separate identifiable components which are separately distributed.

Q-3. What are separate accounts for purposes of section 401(a)(9)?

A-3. For purposes of section 401(a)(9), separate accounts in an employee's account are separate portions of an employee's benefit reflecting the separate interests of the employee's beneficiaries under the plan as of the date of the employee's death for which separate accounting is maintained. The separate accounting must allocate all post-death investment gains and losses, contributions, and forfeitures, for the period prior to the establishment of the separate accounts on a pro rata basis in a reasonable and consistent manner among the separate accounts. However, once the separate accounts are actually established, the separate accounting can provide for separate investments for each separate account under which gains and losses from the investment of the account are only allocated to that account, or investment gain or losses can continue to be allocated among the separate accounts on a pro rata basis. A separate accounting must allocate any post-death distribution to the separate account of the beneficiary receiving that distribution.

Q-4. If a distribution is required to be made to an employee by section 401(a)(9)(A) or is required to be made to a surviving spouse under section 401(a)(9)(B), must the distribution be made even if the employee, or spouse where applicable, fails to consent to a distribution while a benefit is immediately distributable?

A-4. Yes, section 411(a)(11) and section 417(e) (see §§1.411(a)(11)-1(c)(2) and 1.417(e)-1(c)) require employee and spousal consent to certain distributions of plan benefits while such benefits are immediately distributable. If an employee's normal retirement age is later than the employee's required beginning date and, therefore, benefits are still immediately distributable, the plan must, nevertheless, distribute plan benefits to the employee (or where applicable, to the spouse) in a manner that satisfies the requirements of section 401(a)(9). Section 401(a)(9) must be satisfied even though the employee (or spouse, where applicable) fails to consent to the distribution. In such a case, the plan may distribute in the form of a qualified joint and survivor annuity (QJSA) or in the form of a qualified

preretirement survivor annuity (QPSA), as applicable, and the consent requirements of sections 411(a)(11) and 417(e) are deemed to be satisfied if the plan has made reasonable efforts to obtain consent from the employee (or spouse if applicable) and if the distribution otherwise meets the requirements of section 417. If, because of section 401(a)(11)(B), the plan is not required to distribute in the form of a QJSA to a employee or a QPSA to a surviving spouse, the plan may distribute the required minimum distribution amount to satisfy section 401(a)(9) and the consent requirements of sections 411(a)(11) and 417(e) are deemed to be satisfied if the plan has made reasonable efforts to obtain consent from the employee (or spouse if applicable) and if the distribution otherwise meets the requirements of section 417.

Q-5. Who is an employee's spouse or surviving spouse for purposes of section 401(a)(9)?

A-5. Except as otherwise provided in A-6(a) of this section (in the case of distributions of a portion of an employee's benefit payable to a former spouse of an employee pursuant to a qualified domestic relations order), for purposes of section 401(a)(9), an individual is a spouse or surviving spouse of an employee if such individual is treated as the employee's spouse under applicable state law. In the case of distributions after the death of an employee, for purposes of determining whether, under the life expectancy rule in section 401(a)(9)(B)(iii) and (iv), the provisions of section 401(a)(9)(B)(iv) apply, the spouse of the employee is determined as of the date of death of the employee.

Q-6. In order to satisfy section 401(a)(9), are there any special rules which apply to the distribution of all or a portion of an employee's benefit payable to an alternate payee pursuant to a qualified domestic relations order as defined in section 414(p) (QDRO)?

A-6. (a) A former spouse to whom all or a portion of the employee's benefit is payable pursuant to a QDRO will be treated as a spouse (including a surviving

spouse) of the employee for purposes of section 401(a)(9), including the minimum distribution incidental benefit requirement, regardless of whether the QDRO specifically provides that the former spouse is treated as the spouse for purposes of sections 401(a)(11) and 417.

(b)(1) If a QDRO provides that an employee's benefit is to be divided and a portion is to be allocated to an alternate payee, such portion will be treated as a separate account (or segregated share) which separately must satisfy the requirements of section 401(a)(9) and may not be aggregated with other separate accounts (or segregated shares) of the employee for purposes of satisfying section 401(a)(9). Except as otherwise provided in paragraph (b)(2) of this A-6, distribution of such separate account allocated to an alternate payee pursuant to a QDRO must be made in accordance with section 401(a)(9). For example, in general, distribution of such account will satisfy section 401(a)(9)(A) if required minimum distributions from such account during the employee's lifetime begin not later than the employee's required beginning date and the required minimum distribution is determined in accordance with §1.401(a)(9)-5 for each distribution calendar year (using an applicable distribution period determined under A-4 of §1.401(a)(9)-5 for the employee in the distribution calendar year either using the Uniform Lifetime Table in A-2 of §1.401(a)(9)-9 or using the joint life expectancy of the employee and a spousal alternate payee in the distribution calendar year if the spousal alternate payee is more than 10 years younger than the employee). The determination of whether distribution from such account after the death of the employee to the alternate payee will be made in accordance with section 401(a)(9)(B)(i) or section 401(a)(9)(B)(ii) or (iii) and (iv) will depend on whether distributions have begun as determined under A-6 of §1.401(a)(9)-2 (which provides, in general, that distributions are not treated as having begun until the employee's required beginning date even though payments may actually have begun before that date). For example, if the alternate payee dies before the employee and distribution of the separate account allocated to the alternate payee pursuant to the QDRO is to be made to

the alternate payee's beneficiary, such beneficiary may be treated as a designated beneficiary for purposes of determining the minimum distribution required from such account after the death of the employee if the beneficiary of the alternate payee is an individual and if such beneficiary is a beneficiary under the plan or specified to or in the plan. Specification in or pursuant to the QDRO is treated as specification to the plan.

(2) Distribution of the separate account allocated to an alternate payee pursuant to a QDRO will satisfy the requirements of section 401(a)(9)(A)(ii) if such account is to be distributed, beginning not later than the employee's required beginning date, over the life of the alternate payee (or over a period not extending beyond the life expectancy of the alternate payee). Also, if the plan permits the employee to elect whether distribution upon the death of the employee will be made in accordance with the 5-year rule in section 401(a)(9)(B)(ii) or the life expectancy rule in section 401(a)(9)(B)(iii) and (iv) pursuant to A-4(c) of §1.401(a)(9)-3, such election is to be made only by the alternate payee for purposes of distributing the separate account allocated to the alternate payee pursuant to the QDRO. If the alternate payee dies after distribution of the separate account allocated to the alternate payee pursuant to a QDRO has begun (determined under A-6 of §1.401(a)(9)-2) but before the employee dies, distribution of the remaining portion of that portion of the benefit allocated to the alternate payee must be made in accordance with the rules in §1.401(a)(9)-5 or 1.401(a)(9)-6T for distributions during the life of the employee. Only after the death of the employee is the amount of the required minimum distribution determined in accordance with the rules of section 401(a)(9)(B).

(c) If a QDRO does not provide that an employee's benefit is to be divided but provides that a portion of an employee's benefit (otherwise payable to the employee) is to be paid to an alternate payee, such portion will not be treated as a separate account (or segregated share) of the employee. Instead, such portion will be aggregated with any amount distributed to the employee and will be

treated as having been distributed to the employee for purposes of determining whether section 401(a)(9) has been satisfied with respect to that employee.

Q-7. Will a plan fail to satisfy section 401(a)(9) merely because it fails to distribute an amount otherwise required to be distributed by section 401(a)(9) during the period in which the issue of whether a domestic relations order is a QDRO is being determined?

A-7. A plan will not fail to satisfy section 401(a)(9) merely because it fails to distribute an amount otherwise required to be distributed by section 401(a)(9) during the period in which the issue of whether a domestic relations order is a QDRO is being determined pursuant to section 414(p)(7), provided that the period does not extend beyond the 18-month period described in section 414(p)(7)(E). To the extent that a distribution otherwise required under section 401(a)(9) is not made during this period, any segregated amounts, as defined in section 414(p)(7)(A), will be treated as though the amounts are not vested during the period and any distributions with respect to such amounts must be made under the relevant rules for nonvested benefits described in either A-8 of §1.401(a)(9)-5 or A-6 of §1.401(a)(9)-6T, as applicable.

Q-8. Will a plan fail to satisfy section 401(a)(9) where an individual's distribution from the plan is less than the amount otherwise required to satisfy section 401(a)(9) because distributions were being paid under an annuity contract issued by a life insurance company in state insurer delinquency proceedings and have been reduced or suspended by reasons of such state proceedings?

A-8. A plan will not fail to satisfy section 401(a)(9) merely because an individual's distribution from the plan is less than the amount otherwise required to satisfy section 401(a)(9) because distributions were being paid under an annuity contract issued by a life insurance company in state insurer delinquency proceedings and have been reduced or suspended by reasons of such state proceedings. To the extent that a distribution otherwise required under section

401(a)(9) is not made during the state insurer delinquency proceedings, this amount and any additional amount accrued during this period will be treated as though such amounts are not vested during the period and any distributions with respect to such amounts must be made under the relevant rules for nonvested benefits described in either A-8 of §1.401(a)(9)-5 or A-6 of §1.401(a)(9)-6T, as applicable.

Q-9. Will a plan fail to qualify as a pension plan within the meaning of section 401(a) solely because the plan permits distributions to commence to an employee on or after April 1 of the calendar year following the calendar year in which the employee attains age 70 1/2 even though the employee has not retired or attained the normal retirement age under the plan as of the date on which such distributions commence?

A-9. No, a plan will not fail to qualify as a pension plan within the meaning of section 401(a) solely because the plan permits distributions to commence to an employee on or after April 1 of the calendar year following the calendar year in which the employee attains age 70 1/2 even though the employee has not retired or attained the normal retirement age under the plan as of the date on which such distributions commence. This rule applies without regard to whether the employee is a 5-percent owner with respect to the plan year ending in the calendar year in which distributions commence.

Q-10. Is the distribution of an annuity contract a distribution for purposes of section 401(a)(9)?

A-10. No, the distribution of an annuity contract is not a distribution for purposes of section 401(a)(9).

Q-11. Will a payment by a plan after the death of an employee fail to be treated as a distribution for purposes of section 401(a)(9) solely because it is made to an estate or a trust?

A-11. A payment by a plan after the death of an employee will not fail to be treated as a distribution for purposes of section 401(a)(9) solely because it is made to an estate or a trust. As a result, the estate or trust which receives a payment from a plan after the death of an employee need not distribute the amount of such payment to the beneficiaries of the estate or trust in accordance with section 401(a)(9)(B). Pursuant to A-3 of §1.401(a)(9)-4, an estate may not be a designated beneficiary. Thus, pursuant to A-4 of §1.401(a)(9)-3, distribution to the estate must satisfy the 5- year rule in section 401(a)(9)(B)(iii) if the distribution to the employee had not begun (as defined in A-6 of §1.401(a)(9)-2) as of the employee's date of death. However, see A-5 and A-6 of §1.401(a)(9)-4 for provisions under which beneficiaries of a trust with respect to the trust's interest in an employee's benefit are treated as having been designated as beneficiaries of the employee under the plan.

Q-12. Will a plan fail to satisfy section 411(d)(6) if the plan is amended to eliminate the availability of an optional form of benefit to the extent that the optional form does not satisfy section 401(a)(9)?

A-12. No, pursuant to section 411(d)(6)(B), a plan will not fail to satisfy section 411(d)(6) merely because the plan is amended to eliminate the availability of an optional form of benefit to the extent that the optional form does not satisfy section 401(a)(9). (See also A-3 of §1.401(a)(9)-1, which requires a plan to provide that, notwithstanding any other plan provision, it will not distribute benefits under any option that does not satisfy section 401(a)(9).)

Q-13. Is a plan disqualified merely because it pays benefits under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA)?

A-13. No, even though the distribution requirements added by TEFRA were retroactively repealed by the Tax Reform Act of 1984 (TRA of 1984), the transitional election rule in section 242(b) of TEFRA was preserved. Satisfaction

of the spousal consent requirements of section 417(a) and (e) (added by the Retirement Equity Act of 1984) will not be considered a revocation of the pre-1984 designation. However, sections 401(a)(11) and 417 must be satisfied with respect to any distribution subject to those sections. The election provided in section 242(b) of TEFRA is hereafter referred to as a section 242(b)(2) election.

Q-14. If an amount is transferred from one plan (transferor plan) to another plan (transferee plan), may the transferee plan distribute the amount transferred in accordance with a section 242(b)(2) election made under either the transferor plan or under the transferee plan?

A-14. (a) If an amount is transferred from one plan (transferor plan) to another plan (transferee plan), the amount transferred may be distributed in accordance with a section 242(b)(2) election made under the transferor plan if the employee did not elect to have the amount transferred and if the amount transferred is separately accounted for by the transferee plan. However, only the benefit attributable to the amount transferred, plus earnings thereon, may be distributed in accordance with the section 242(b)(2) election made under the transferor plan. If the employee elected to have the amount transferred, the transfer will be treated as a distribution and rollover of the amount transferred for purposes of this section.

(b) In the case in which an amount is transferred from one plan to another plan, the amount transferred may not be distributed in accordance with a section 242(b)(2) election made under the transferee plan. If a section 242(b)(2) election was made under the transferee plan, the amount transferred must be separately accounted for. If the amount transferred is not separately accounted for under the transferee plan, the section 242(b)(2) election under the transferee plan is revoked and section 401(a)(9) will apply to subsequent distributions by the transferee plan.

(c) A merger, spinoff, or consolidation, as defined in §1.414(l)-1(b), will be treated as a transfer for purposes of the section 242(b)(2) election.

Q-15. If an amount is distributed by one plan (distributing plan) and rolled over into another plan (receiving plan), may the receiving plan distribute the amount rolled over in accordance with a section 242(b)(2) election made under either the distributing plan or the receiving plan?

A-15. No, if an amount is distributed by one plan (distributing plan) and rolled over into another plan (receiving plan), the receiving plan must distribute the amount rolled over in accordance with section 401(a)(9) whether or not the employee made a section 242(b)(2) election under the distributing plan. Further, if the amount rolled over was not distributed in accordance with the election, the election under the distributing plan is revoked and section 401(a)(9) will apply to all subsequent distributions by the distributing plan. Finally, if the employee made a section 242(b)(2) election under the receiving plan and such election is still in effect, the amount rolled over must be separately accounted for under the receiving plan and distributed in accordance with section 401(a)(9). If amounts rolled over are not separately accounted for, any section 242(b)(2) election under the receiving plan is revoked and section 401(a)(9) will apply to subsequent distributions by the receiving plan.

Q-16. May a section 242(b)(2) election be revoked after the date by which distributions are required to commence in order to satisfy section 401(a)(9) and this section of the regulations?

A-16. Yes, a section 242(b)(2) election may be revoked after the date by which distributions are required to commence in order to satisfy section 401(a)(9) and this section of the regulations. However, if the section 242(b)(2) election is revoked after the date by which distributions are required to commence in order to satisfy section 401(a)(9) and this section of the regulations and the total amount of the distributions which would have been required to be made prior to

the date of the revocation in order to satisfy section 401(a)(9), but for the section 242(b)(2) election, have not been made, the plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which was required to have been distributed to satisfy the requirements of section 401(a)(9) and continue distributions in accordance with such requirements.

§1.401(a)(9)-9 Life expectancy and distribution period tables.

Q-1. What is the life expectancy for an individual for purposes of determining required minimum distributions under section 401(a)(9)?

A-1 The following table, referred to as the Single Life Table, is used for determining the life expectancy of an individual:

Single Life Table

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	82.4	29	54.3	58	27.0	87	6.7
1	81.6	30	53.3	59	26.1	88	6.3
2	80.6	31	52.4	60	25.2	89	5.9
3	79.7	32	51.4	61	24.4	90	5.5
4	78.7	33	50.4	62	23.5	91	5.2
5	77.7	34	49.4	63	22.7	92	4.9
6	76.7	35	48.5	64	21.8	93	4.6
7	75.8	36	47.5	65	21.0	94	4.3
8	74.8	37	46.5	66	20.2	95	4.1
9	73.8	38	45.6	67	19.4	96	3.8
10	72.8	39	44.6	68	18.6	97	3.6
11	71.8	40	43.6	69	17.8	98	3.4
12	70.8	41	42.7	70	17.0	99	3.1
13	69.9	42	41.7	71	16.3	100	2.9
14	68.9	43	40.7	72	15.5	101	2.7

15	67.9	44	39.8	73	14.8	102	2.5
16	66.9	45	38.8	74	14.1	103	2.3
17	66.0	46	37.9	75	13.4	104	2.1
18	65.0	47	37.0	76	12.7	105	1.9
19	64.0	48	36.0	77	12.1	106	1.7
20	63.0	49	35.1	78	11.4	107	1.5
21	62.1	50	34.2	79	10.8	108	1.4
22	61.1	51	33.3	80	10.2	109	1.2
23	60.1	52	32.3	81	9.7	110	1.1
24	59.1	53	31.4	82	9.1	111+	1.0
25	58.2	54	30.5	83	8.6		
26	57.2	55	29.6	84	8.1		
27	56.2	56	28.7	85	7.6		
28	55.3	57	27.9	86	7.1		

Q-2. What is the applicable distribution period for an individual account for purposes of determining required minimum distributions during an employee's lifetime under section 401(a)(9)?

A-2. Table for determining distribution period. The following table, referred to as the Uniform Lifetime Table, is used for determining the distribution period for lifetime distributions to an employee in situations in which the employee's spouse is either not the sole designated beneficiary or is the sole designated beneficiary but is not more than 10 years younger than the employee.

Uniform Lifetime Table

Age of employee Distribution period Age of employee Distribution period

70	27.4	92	10.2
71	26.5	93	9.6
72	25.6	94	9.1
73	24.7	95	8.6
74	23.8	96	8.1
75	22.9	97	7.6

76	22.0	98	7.1
77	21.2	99	6.7
78	20.3	100	6.3
79	19.5	101	5.9
80	18.7	102	5.5
81	17.9	103	5.2
82	17.1	104	4.9
83	16.3	105	4.5
84	15.5	106	4.2
85	14.8	107	3.9
86	14.1	108	3.7
87	13.4	109	3.4
88	12.7	110	3.1
89	12.0	111	2.9
90	11.4	112	2.6
91	10.8	113	2.4
92	10.2	114	2.1
93	9.6	115+	1.9

Q-3. What is the joint life and last survivor expectancy of an individual and beneficiary for purposes of determining required minimum distributions under section 401(a)(9)?

A-3. The following table, referred to as the Joint and Last Survivor Table, is used for determining the joint and last survivor life expectancy of two individuals:

Joint and Last Survivor Table

AGES 0 1 2 3 4 5 6 7 8 9

0	90.0	89.5	89.0	88.6	88.2	87.8	87.4	87.1	86.8	86.5
1	89.5	89.0	88.5	88.1	87.6	87.2	86.8	86.5	86.1	85.8
2	89.0	88.5	88.0	87.5	87.1	86.6	86.2	85.8	85.5	85.1
3	88.6	88.1	87.5	87.0	86.5	86.1	85.6	85.2	84.8	84.5
4	88.2	87.6	87.1	86.5	86.0	85.5	85.1	84.6	84.2	83.8
5	87.8	87.2	86.6	86.1	85.5	85.0	84.5	84.1	83.6	83.2

6 87.4 86.8 86.2 85.6 85.1 84.5 84.0 83.5 83.1 82.6
7 87.1 86.5 85.8 85.2 84.6 84.1 83.5 83.0 82.5 82.1
8 86.8 86.1 85.5 84.8 84.2 83.6 83.1 82.5 82.0 81.6
9 86.5 85.8 85.1 84.5 83.8 83.2 82.6 82.1 81.6 81.0
10 86.2 85.5 84.8 84.1 83.5 82.8 82.2 81.6 81.1 80.6
11 85.9 85.2 84.5 83.8 83.1 82.5 81.8 81.2 80.7 80.1
12 85.7 84.9 84.2 83.5 82.8 82.1 81.5 80.8 80.2 79.7
13 85.4 84.7 84.0 83.2 82.5 81.8 81.1 80.5 79.9 79.2
14 85.2 84.5 83.7 83.0 82.2 81.5 80.8 80.1 79.5 78.9
15 85.0 84.3 83.5 82.7 82.0 81.2 80.5 79.8 79.1 78.5
16 84.9 84.1 83.3 82.5 81.7 81.0 80.2 79.5 78.8 78.1
17 84.7 83.9 83.1 82.3 81.5 80.7 80.0 79.2 78.5 77.8
18 84.5 83.7 82.9 82.1 81.3 80.5 79.7 79.0 78.2 77.5
19 84.4 83.6 82.7 81.9 81.1 80.3 79.5 78.7 78.0 77.3
20 84.3 83.4 82.6 81.8 80.9 80.1 79.3 78.5 77.7 77.0
21 84.1 83.3 82.4 81.6 80.8 79.9 79.1 78.3 77.5 76.8
22 84.0 83.2 82.3 81.5 80.6 79.8 78.9 78.1 77.3 76.5
23 83.9 83.1 82.2 81.3 80.5 79.6 78.8 77.9 77.1 76.3
24 83.8 83.0 82.1 81.2 80.3 79.5 78.6 77.8 76.9 76.1
25 83.7 82.9 82.0 81.1 80.2 79.3 78.5 77.6 76.8 75.9
26 83.6 82.8 81.9 81.0 80.1 79.2 78.3 77.5 76.6 75.8
27 83.6 82.7 81.8 80.9 80.0 79.1 78.2 77.4 76.5 75.6
28 83.5 82.6 81.7 80.8 79.9 79.0 78.1 77.2 76.4 75.5
29 83.4 82.6 81.6 80.7 79.8 78.9 78.0 77.1 76.2 75.4
30 83.4 82.5 81.6 80.7 79.7 78.8 77.9 77.0 76.1 75.2
31 83.3 82.4 81.5 80.6 79.7 78.8 77.8 76.9 76.0 75.1
32 83.3 82.4 81.5 80.5 79.6 78.7 77.8 76.8 75.9 75.0
33 83.2 82.3 81.4 80.5 79.5 78.6 77.7 76.8 75.9 74.9
34 83.2 82.3 81.3 80.4 79.5 78.5 77.6 76.7 75.8 74.9
35 83.1 82.2 81.3 80.4 79.4 78.5 77.6 76.6 75.7 74.8
36 83.1 82.2 81.3 80.3 79.4 78.4 77.5 76.6 75.6 74.7
37 83.0 82.2 81.2 80.3 79.3 78.4 77.4 76.5 75.6 74.6
38 83.0 82.1 81.2 80.2 79.3 78.3 77.4 76.4 75.5 74.6
39 83.0 82.1 81.1 80.2 79.2 78.3 77.3 76.4 75.5 74.5
40 82.9 82.1 81.1 80.2 79.2 78.3 77.3 76.4 75.4 74.5
41 82.9 82.0 81.1 80.1 79.2 78.2 77.3 76.3 75.4 74.4
42 82.9 82.0 81.1 80.1 79.1 78.2 77.2 76.3 75.3 74.4

43 82.9 82.0 81.0 80.1 79.1 78.2 77.2 76.2 75.3 74.3
44 82.8 81.9 81.0 80.0 79.1 78.1 77.2 76.2 75.2 74.3
45 82.8 81.9 81.0 80.0 79.1 78.1 77.1 76.2 75.2 74.3
46 82.8 81.9 81.0 80.0 79.0 78.1 77.1 76.1 75.2 74.2
47 82.8 81.9 80.9 80.0 79.0 78.0 77.1 76.1 75.2 74.2
48 82.8 81.9 80.9 80.0 79.0 78.0 77.1 76.1 75.1 74.2
49 82.7 81.8 80.9 79.9 79.0 78.0 77.0 76.1 75.1 74.1
50 82.7 81.8 80.9 79.9 79.0 78.0 77.0 76.0 75.1 74.1
51 82.7 81.8 80.9 79.9 78.9 78.0 77.0 76.0 75.1 74.1
52 82.7 81.8 80.9 79.9 78.9 78.0 77.0 76.0 75.0 74.1
53 82.7 81.8 80.8 79.9 78.9 77.9 77.0 76.0 75.0 74.0
54 82.7 81.8 80.8 79.9 78.9 77.9 76.9 76.0 75.0 74.0
55 82.6 81.8 80.8 79.8 78.9 77.9 76.9 76.0 75.0 74.0
56 82.6 81.7 80.8 79.8 78.9 77.9 76.9 75.9 75.0 74.0
57 82.6 81.7 80.8 79.8 78.9 77.9 76.9 75.9 75.0 74.0
58 82.6 81.7 80.8 79.8 78.8 77.9 76.9 75.9 74.9 74.0
59 82.6 81.7 80.8 79.8 78.8 77.9 76.9 75.9 74.9 74.0
60 82.6 81.7 80.8 79.8 78.8 77.8 76.9 75.9 74.9 73.9
61 82.6 81.7 80.8 79.8 78.8 77.8 76.9 75.9 74.9 73.9
62 82.6 81.7 80.7 79.8 78.8 77.8 76.9 75.9 74.9 73.9
63 82.6 81.7 80.7 79.8 78.8 77.8 76.8 75.9 74.9 73.9
64 82.5 81.7 80.7 79.8 78.8 77.8 76.8 75.9 74.9 73.9
65 82.5 81.7 80.7 79.8 78.8 77.8 76.8 75.8 74.9 73.9
66 82.5 81.7 80.7 79.7 78.8 77.8 76.8 75.8 74.9 73.9
67 82.5 81.7 80.7 79.7 78.8 77.8 76.8 75.8 74.9 73.9
68 82.5 81.6 80.7 79.7 78.8 77.8 76.8 75.8 74.8 73.9
69 82.5 81.6 80.7 79.7 78.8 77.8 76.8 75.8 74.8 73.9
70 82.5 81.6 80.7 79.7 78.8 77.8 76.8 75.8 74.8 73.9
71 82.5 81.6 80.7 79.7 78.7 77.8 76.8 75.8 74.8 73.8
72 82.5 81.6 80.7 79.7 78.7 77.8 76.8 75.8 74.8 73.8
73 82.5 81.6 80.7 79.7 78.7 77.8 76.8 75.8 74.8 73.8
74 82.5 81.6 80.7 79.7 78.7 77.8 76.8 75.8 74.8 73.8
75 82.5 81.6 80.7 79.7 78.7 77.8 76.8 75.8 74.8 73.8
76 82.5 81.6 80.7 79.7 78.7 77.8 76.8 75.8 74.8 73.8
77 82.5 81.6 80.7 79.7 78.7 77.7 76.8 75.8 74.8 73.8
78 82.5 81.6 80.7 79.7 78.7 77.7 76.8 75.8 74.8 73.8
79 82.5 81.6 80.7 79.7 78.7 77.7 76.8 75.8 74.8 73.8

AGES 10 11 12 13 14 15 16 17 18 19

10	80.0	79.6	79.1	78.7	78.2	77.9	77.5	77.2	76.8	76.5
11	79.6	79.0	78.6	78.1	77.7	77.3	76.9	76.5	76.2	75.8
12	79.1	78.6	78.1	77.6	77.1	76.7	76.3	75.9	75.5	75.2
13	78.7	78.1	77.6	77.1	76.6	76.1	75.7	75.3	74.9	74.5
14	78.2	77.7	77.1	76.6	76.1	75.6	75.1	74.7	74.3	73.9
15	77.9	77.3	76.7	76.1	75.6	75.1	74.6	74.1	73.7	73.3
16	77.5	76.9	76.3	75.7	75.1	74.6	74.1	73.6	73.1	72.7
17	77.2	76.5	75.9	75.3	74.7	74.1	73.6	73.1	72.6	72.1
18	76.8	76.2	75.5	74.9	74.3	73.7	73.1	72.6	72.1	71.6
19	76.5	75.8	75.2	74.5	73.9	73.3	72.7	72.1	71.6	71.1
20	76.3	75.5	74.8	74.2	73.5	72.9	72.3	71.7	71.1	70.6
21	76.0	75.3	74.5	73.8	73.2	72.5	71.9	71.3	70.7	70.1
22	75.8	75.0	74.3	73.5	72.9	72.2	71.5	70.9	70.3	69.7
23	75.5	74.8	74.0	73.3	72.6	71.9	71.2	70.5	69.9	69.3
24	75.3	74.5	73.8	73.0	72.3	71.6	70.9	70.2	69.5	68.9
25	75.1	74.3	73.5	72.8	72.0	71.3	70.6	69.9	69.2	68.5
26	75.0	74.1	73.3	72.5	71.8	71.0	70.3	69.6	68.9	68.2
27	74.8	74.0	73.1	72.3	71.6	70.8	70.0	69.3	68.6	67.9
28	74.6	73.8	73.0	72.2	71.3	70.6	69.8	69.0	68.3	67.6
29	74.5	73.6	72.8	72.0	71.2	70.4	69.6	68.8	68.0	67.3
30	74.4	73.5	72.7	71.8	71.0	70.2	69.4	68.6	67.8	67.1
31	74.3	73.4	72.5	71.7	70.8	70.0	69.2	68.4	67.6	66.8
32	74.1	73.3	72.4	71.5	70.7	69.8	69.0	68.2	67.4	66.6
33	74.0	73.2	72.3	71.4	70.5	69.7	68.8	68.0	67.2	66.4
34	73.9	73.0	72.2	71.3	70.4	69.5	68.7	67.8	67.0	66.2
35	73.9	73.0	72.1	71.2	70.3	69.4	68.5	67.7	66.8	66.0
36	73.8	72.9	72.0	71.1	70.2	69.3	68.4	67.6	66.7	65.9
37	73.7	72.8	71.9	71.0	70.1	69.2	68.3	67.4	66.6	65.7
38	73.6	72.7	71.8	70.9	70.0	69.1	68.2	67.3	66.4	65.6
39	73.6	72.7	71.7	70.8	69.9	69.0	68.1	67.2	66.3	65.4
40	73.5	72.6	71.7	70.7	69.8	68.9	68.0	67.1	66.2	65.3
41	73.5	72.5	71.6	70.7	69.7	68.8	67.9	67.0	66.1	65.2
42	73.4	72.5	71.5	70.6	69.7	68.8	67.8	66.9	66.0	65.1

43 73.4 72.4 71.5 70.6 69.6 68.7 67.8 66.8 65.9 65.0
44 73.3 72.4 71.4 70.5 69.6 68.6 67.7 66.8 65.9 64.9
45 73.3 72.3 71.4 70.5 69.5 68.6 67.6 66.7 65.8 64.9
46 73.3 72.3 71.4 70.4 69.5 68.5 67.6 66.6 65.7 64.8
47 73.2 72.3 71.3 70.4 69.4 68.5 67.5 66.6 65.7 64.7
48 73.2 72.2 71.3 70.3 69.4 68.4 67.5 66.5 65.6 64.7
49 73.2 72.2 71.2 70.3 69.3 68.4 67.4 66.5 65.6 64.6
50 73.1 72.2 71.2 70.3 69.3 68.4 67.4 66.5 65.5 64.6
51 73.1 72.2 71.2 70.2 69.3 68.3 67.4 66.4 65.5 64.5
52 73.1 72.1 71.2 70.2 69.2 68.3 67.3 66.4 65.4 64.5
53 73.1 72.1 71.1 70.2 69.2 68.3 67.3 66.3 65.4 64.4
54 73.1 72.1 71.1 70.2 69.2 68.2 67.3 66.3 65.4 64.4
55 73.0 72.1 71.1 70.1 69.2 68.2 67.2 66.3 65.3 64.4
56 73.0 72.1 71.1 70.1 69.1 68.2 67.2 66.3 65.3 64.3
57 73.0 72.0 71.1 70.1 69.1 68.2 67.2 66.2 65.3 64.3
58 73.0 72.0 71.0 70.1 69.1 68.1 67.2 66.2 65.2 64.3
59 73.0 72.0 71.0 70.1 69.1 68.1 67.2 66.2 65.2 64.3
60 73.0 72.0 71.0 70.0 69.1 68.1 67.1 66.2 65.2 64.2
61 73.0 72.0 71.0 70.0 69.1 68.1 67.1 66.2 65.2 64.2
62 72.9 72.0 71.0 70.0 69.0 68.1 67.1 66.1 65.2 64.2
63 72.9 72.0 71.0 70.0 69.0 68.1 67.1 66.1 65.2 64.2
64 72.9 71.9 71.0 70.0 69.0 68.0 67.1 66.1 65.1 64.2
65 72.9 71.9 71.0 70.0 69.0 68.0 67.1 66.1 65.1 64.2
66 72.9 71.9 70.9 70.0 69.0 68.0 67.1 66.1 65.1 64.1
67 72.9 71.9 70.9 70.0 69.0 68.0 67.0 66.1 65.1 64.1
68 72.9 71.9 70.9 70.0 69.0 68.0 67.0 66.1 65.1 64.1
69 72.9 71.9 70.9 69.9 69.0 68.0 67.0 66.1 65.1 64.1
70 72.9 71.9 70.9 69.9 69.0 68.0 67.0 66.0 65.1 64.1
71 72.9 71.9 70.9 69.9 69.0 68.0 67.0 66.0 65.1 64.1
72 72.9 71.9 70.9 69.9 69.0 68.0 67.0 66.0 65.1 64.1
73 72.9 71.9 70.9 69.9 68.9 68.0 67.0 66.0 65.0 64.1
74 72.9 71.9 70.9 69.9 68.9 68.0 67.0 66.0 65.0 64.1
75 72.8 71.9 70.9 69.9 68.9 68.0 67.0 66.0 65.0 64.1
76 72.8 71.9 70.9 69.9 68.9 68.0 67.0 66.0 65.0 64.1
77 72.8 71.9 70.9 69.9 68.9 68.0 67.0 66.0 65.0 64.1
78 72.8 71.9 70.9 69.9 68.9 67.9 67.0 66.0 65.0 64.0
79 72.8 71.9 70.9 69.9 68.9 67.9 67.0 66.0 65.0 64.0

AGES 20 21 22 23 24 25 26 27 28 29

20	70.1	69.6	69.1	68.7	68.3	67.9	67.5	67.2	66.9	66.6
21	69.6	69.1	68.6	68.2	67.7	67.3	66.9	66.6	66.2	65.9
22	69.1	68.6	68.1	67.6	67.2	66.7	66.3	65.9	65.6	65.2
23	68.7	68.2	67.6	67.1	66.6	66.2	65.7	65.3	64.9	64.6
24	68.3	67.7	67.2	66.6	66.1	65.6	65.2	64.7	64.3	63.9
25	67.9	67.3	66.7	66.2	65.6	65.1	64.6	64.2	63.7	63.3
26	67.5	66.9	66.3	65.7	65.2	64.6	64.1	63.6	63.2	62.8
27	67.2	66.6	65.9	65.3	64.7	64.2	63.6	63.1	62.7	62.2
28	66.9	66.2	65.6	64.9	64.3	63.7	63.2	62.7	62.1	61.7
29	66.6	65.9	65.2	64.6	63.9	63.3	62.8	62.2	61.7	61.2
30	66.3	65.6	64.9	64.2	63.6	62.9	62.3	61.8	61.2	60.7
31	66.1	65.3	64.6	63.9	63.2	62.6	62.0	61.4	60.8	60.2
32	65.8	65.1	64.3	63.6	62.9	62.2	61.6	61.0	60.4	59.8
33	65.6	64.8	64.1	63.3	62.6	61.9	61.3	60.6	60.0	59.4
34	65.4	64.6	63.8	63.1	62.3	61.6	60.9	60.3	59.6	59.0
35	65.2	64.4	63.6	62.8	62.1	61.4	60.6	59.9	59.3	58.6
36	65.0	64.2	63.4	62.6	61.9	61.1	60.4	59.6	59.0	58.3
37	64.9	64.0	63.2	62.4	61.6	60.9	60.1	59.4	58.7	58.0
38	64.7	63.9	63.0	62.2	61.4	60.6	59.9	59.1	58.4	57.7
39	64.6	63.7	62.9	62.1	61.2	60.4	59.6	58.9	58.1	57.4
40	64.4	63.6	62.7	61.9	61.1	60.2	59.4	58.7	57.9	57.1
41	64.3	63.5	62.6	61.7	60.9	60.1	59.3	58.5	57.7	56.9
42	64.2	63.3	62.5	61.6	60.8	59.9	59.1	58.3	57.5	56.7
43	64.1	63.2	62.4	61.5	60.6	59.8	58.9	58.1	57.3	56.5
44	64.0	63.1	62.2	61.4	60.5	59.6	58.8	57.9	57.1	56.3
45	64.0	63.0	62.2	61.3	60.4	59.5	58.6	57.8	56.9	56.1
46	63.9	63.0	62.1	61.2	60.3	59.4	58.5	57.7	56.8	56.0
47	63.8	62.9	62.0	61.1	60.2	59.3	58.4	57.5	56.7	55.8
48	63.7	62.8	61.9	61.0	60.1	59.2	58.3	57.4	56.5	55.7
49	63.7	62.8	61.8	60.9	60.0	59.1	58.2	57.3	56.4	55.6
50	63.6	62.7	61.8	60.8	59.9	59.0	58.1	57.2	56.3	55.4
51	63.6	62.6	61.7	60.8	59.9	58.9	58.0	57.1	56.2	55.3
52	63.5	62.6	61.7	60.7	59.8	58.9	58.0	57.1	56.1	55.2

53 63.5 62.5 61.6 60.7 59.7 58.8 57.9 57.0 56.1 55.2
54 63.5 62.5 61.6 60.6 59.7 58.8 57.8 56.9 56.0 55.1
55 63.4 62.5 61.5 60.6 59.6 58.7 57.8 56.8 55.9 55.0
56 63.4 62.4 61.5 60.5 59.6 58.7 57.7 56.8 55.9 54.9
57 63.4 62.4 61.5 60.5 59.6 58.6 57.7 56.7 55.8 54.9
58 63.3 62.4 61.4 60.5 59.5 58.6 57.6 56.7 55.8 54.8
59 63.3 62.3 61.4 60.4 59.5 58.5 57.6 56.7 55.7 54.8
60 63.3 62.3 61.4 60.4 59.5 58.5 57.6 56.6 55.7 54.7
61 63.3 62.3 61.3 60.4 59.4 58.5 57.5 56.6 55.6 54.7
62 63.2 62.3 61.3 60.4 59.4 58.4 57.5 56.5 55.6 54.7
63 63.2 62.3 61.3 60.3 59.4 58.4 57.5 56.5 55.6 54.6
64 63.2 62.2 61.3 60.3 59.4 58.4 57.4 56.5 55.5 54.6
65 63.2 62.2 61.3 60.3 59.3 58.4 57.4 56.5 55.5 54.6
66 63.2 62.2 61.2 60.3 59.3 58.4 57.4 56.4 55.5 54.5
67 63.2 62.2 61.2 60.3 59.3 58.3 57.4 56.4 55.5 54.5
68 63.1 62.2 61.2 60.2 59.3 58.3 57.4 56.4 55.4 54.5
69 63.1 62.2 61.2 60.2 59.3 58.3 57.3 56.4 55.4 54.5
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87 34.3 33.4 32.5 31.6 30.7 29.8 28.9 28.1 27.2 26.4
88 34.3 33.4 32.5 31.6 30.7 29.8 28.9 28.0 27.2 26.3
89 34.3 33.3 32.4 31.5 30.7 29.8 28.9 28.0 27.2 26.3
90 34.2 33.3 32.4 31.5 30.6 29.8 28.9 28.0 27.1 26.3
91 34.2 33.3 32.4 31.5 30.6 29.7 28.9 28.0 27.1 26.3
92 34.2 33.3 32.4 31.5 30.6 29.7 28.8 28.0 27.1 26.2
93 34.2 33.3 32.4 31.5 30.6 29.7 28.8 28.0 27.1 26.2
94 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.1 26.2
95 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.1 26.2
96 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.0 26.2
97 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.0 26.2
98 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.0 26.2
99 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.0 26.2
100 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.0 26.1
101 34.2 33.3 32.4 31.5 30.6 29.7 28.8 27.9 27.0 26.1
102 34.2 33.3 32.4 31.4 30.5 29.7 28.8 27.9 27.0 26.1
103 34.2 33.3 32.4 31.4 30.5 29.7 28.8 27.9 27.0 26.1
104 34.2 33.3 32.4 31.4 30.5 29.6 28.8 27.9 27.0 26.1
105 34.2 33.3 32.3 31.4 30.5 29.6 28.8 27.9 27.0 26.1
106 34.2 33.3 32.3 31.4 30.5 29.6 28.8 27.9 27.0 26.1
107 34.2 33.3 32.3 31.4 30.5 29.6 28.8 27.9 27.0 26.1
108 34.2 33.3 32.3 31.4 30.5 29.6 28.8 27.9 27.0 26.1

109 34.2 33.3 32.3 31.4 30.5 29.6 28.7 27.9 27.0 26.1
110 34.2 33.3 32.3 31.4 30.5 29.6 28.7 27.9 27.0 26.1
111 34.2 33.3 32.3 31.4 30.5 29.6 28.7 27.9 27.0 26.1
112 34.2 33.3 32.3 31.4 30.5 29.6 28.7 27.9 27.0 26.1
113 34.2 33.3 32.3 31.4 30.5 29.6 28.7 27.9 27.0 26.1
114 34.2 33.3 32.3 31.4 30.5 29.6 28.7 27.9 27.0 26.1
115+ 34.2 33.3 32.3 31.4 30.5 29.6 28.7 27.9 27.0 26.1

AGES 60 61 62 63 64 65 66 67 68 69

60 30.9 30.4 30.0 29.6 29.2 28.8 28.5 28.2 27.9 27.6
61 30.4 29.9 29.5 29.0 28.6 28.3 27.9 27.6 27.3 27.0
62 30.0 29.5 29.0 28.5 28.1 27.7 27.3 27.0 26.7 26.4
63 29.6 29.0 28.5 28.1 27.6 27.2 26.8 26.4 26.1 25.7
64 29.2 28.6 28.1 27.6 27.1 26.7 26.3 25.9 25.5 25.2
65 28.8 28.3 27.7 27.2 26.7 26.2 25.8 25.4 25.0 24.6
66 28.5 27.9 27.3 26.8 26.3 25.8 25.3 24.9 24.5 24.1
67 28.2 27.6 27.0 26.4 25.9 25.4 24.9 24.4 24.0 23.6
68 27.9 27.3 26.7 26.1 25.5 25.0 24.5 24.0 23.5 23.1
69 27.6 27.0 26.4 25.7 25.2 24.6 24.1 23.6 23.1 22.6
70 27.4 26.7 26.1 25.4 24.8 24.3 23.7 23.2 22.7 22.2
71 27.2 26.5 25.8 25.2 24.5 23.9 23.4 22.8 22.3 21.8
72 27.0 26.3 25.6 24.9 24.3 23.7 23.1 22.5 22.0 21.4
73 26.8 26.1 25.4 24.7 24.0 23.4 22.8 22.2 21.6 21.1
74 26.6 25.9 25.2 24.5 23.8 23.1 22.5 21.9 21.3 20.8
75 26.5 25.7 25.0 24.3 23.6 22.9 22.3 21.6 21.0 20.5
76 26.3 25.6 24.8 24.1 23.4 22.7 22.0 21.4 20.8 20.2
77 26.2 25.4 24.7 23.9 23.2 22.5 21.8 21.2 20.6 19.9
78 26.1 25.3 24.6 23.8 23.1 22.4 21.7 21.0 20.3 19.7
79 26.0 25.2 24.4 23.7 22.9 22.2 21.5 20.8 20.1 19.5
80 25.9 25.1 24.3 23.6 22.8 22.1 21.3 20.6 20.0 19.3
81 25.8 25.0 24.2 23.4 22.7 21.9 21.2 20.5 19.8 19.1
82 25.8 24.9 24.1 23.4 22.6 21.8 21.1 20.4 19.7 19.0
83 25.7 24.9 24.1 23.3 22.5 21.7 21.0 20.2 19.5 18.8
84 25.6 24.8 24.0 23.2 22.4 21.6 20.9 20.1 19.4 18.7
85 25.6 24.8 23.9 23.1 22.3 21.6 20.8 20.1 19.3 18.6

86	25.5	24.7	23.9	23.1	22.3	21.5	20.7	20.0	19.2	18.5
87	25.5	24.7	23.8	23.0	22.2	21.4	20.7	19.9	19.2	18.4
88	25.5	24.6	23.8	23.0	22.2	21.4	20.6	19.8	19.1	18.3
89	25.4	24.6	23.8	22.9	22.1	21.3	20.5	19.8	19.0	18.3
90	25.4	24.6	23.7	22.9	22.1	21.3	20.5	19.7	19.0	18.2
91	25.4	24.5	23.7	22.9	22.1	21.3	20.5	19.7	18.9	18.2
92	25.4	24.5	23.7	22.9	22.0	21.2	20.4	19.6	18.9	18.1
93	25.4	24.5	23.7	22.8	22.0	21.2	20.4	19.6	18.8	18.1
94	25.3	24.5	23.6	22.8	22.0	21.2	20.4	19.6	18.8	18.0
95	25.3	24.5	23.6	22.8	22.0	21.1	20.3	19.6	18.8	18.0
96	25.3	24.5	23.6	22.8	21.9	21.1	20.3	19.5	18.8	18.0
97	25.3	24.5	23.6	22.8	21.9	21.1	20.3	19.5	18.7	18.0
98	25.3	24.4	23.6	22.8	21.9	21.1	20.3	19.5	18.7	17.9
99	25.3	24.4	23.6	22.7	21.9	21.1	20.3	19.5	18.7	17.9
100	25.3	24.4	23.6	22.7	21.9	21.1	20.3	19.5	18.7	17.9
101	25.3	24.4	23.6	22.7	21.9	21.1	20.2	19.4	18.7	17.9
102	25.3	24.4	23.6	22.7	21.9	21.1	20.2	19.4	18.6	17.9
103	25.3	24.4	23.6	22.7	21.9	21.0	20.2	19.4	18.6	17.9
104	25.3	24.4	23.5	22.7	21.9	21.0	20.2	19.4	18.6	17.8
105	25.3	24.4	23.5	22.7	21.9	21.0	20.2	19.4	18.6	17.8
106	25.3	24.4	23.5	22.7	21.9	21.0	20.2	19.4	18.6	17.8
107	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
108	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
109	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
110	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
111	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
112	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
113	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
114	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8
115+	25.2	24.4	23.5	22.7	21.8	21.0	20.2	19.4	18.6	17.8

AGES 70 71 72 73 74 75 76 77 78 79

70	21.8	21.3	20.9	20.6	20.2	19.9	19.6	19.4	19.1	18.9
71	21.3	20.9	20.5	20.1	19.7	19.4	19.1	18.8	18.5	18.3
72	20.9	20.5	20.0	19.6	19.3	18.9	18.6	18.3	18.0	17.7

73 20.6 20.1 19.6 19.2 18.8 18.4 18.1 17.8 17.5 17.2
74 20.2 19.7 19.3 18.8 18.4 18.0 17.6 17.3 17.0 16.7
75 19.9 19.4 18.9 18.4 18.0 17.6 17.2 16.8 16.5 16.2
76 19.6 19.1 18.6 18.1 17.6 17.2 16.8 16.4 16.0 15.7
77 19.4 18.8 18.3 17.8 17.3 16.8 16.4 16.0 15.6 15.3
78 19.1 18.5 18.0 17.5 17.0 16.5 16.0 15.6 15.2 14.9
79 18.9 18.3 17.7 17.2 16.7 16.2 15.7 15.3 14.9 14.5
80 18.7 18.1 17.5 16.9 16.4 15.9 15.4 15.0 14.5 14.1
81 18.5 17.9 17.3 16.7 16.2 15.6 15.1 14.7 14.2 13.8
82 18.3 17.7 17.1 16.5 15.9 15.4 14.9 14.4 13.9 13.5
83 18.2 17.5 16.9 16.3 15.7 15.2 14.7 14.2 13.7 13.2
84 18.0 17.4 16.7 16.1 15.5 15.0 14.4 13.9 13.4 13.0
85 17.9 17.3 16.6 16.0 15.4 14.8 14.3 13.7 13.2 12.8
86 17.8 17.1 16.5 15.8 15.2 14.6 14.1 13.5 13.0 12.5
87 17.7 17.0 16.4 15.7 15.1 14.5 13.9 13.4 12.9 12.4
88 17.6 16.9 16.3 15.6 15.0 14.4 13.8 13.2 12.7 12.2
89 17.6 16.9 16.2 15.5 14.9 14.3 13.7 13.1 12.6 12.0
90 17.5 16.8 16.1 15.4 14.8 14.2 13.6 13.0 12.4 11.9
91 17.4 16.7 16.0 15.4 14.7 14.1 13.5 12.9 12.3 11.8
92 17.4 16.7 16.0 15.3 14.6 14.0 13.4 12.8 12.2 11.7
93 17.3 16.6 15.9 15.2 14.6 13.9 13.3 12.7 12.1 11.6
94 17.3 16.6 15.9 15.2 14.5 13.9 13.2 12.6 12.0 11.5
95 17.3 16.5 15.8 15.1 14.5 13.8 13.2 12.6 12.0 11.4
96 17.2 16.5 15.8 15.1 14.4 13.8 13.1 12.5 11.9 11.3
97 17.2 16.5 15.8 15.1 14.4 13.7 13.1 12.5 11.9 11.3
98 17.2 16.4 15.7 15.0 14.3 13.7 13.0 12.4 11.8 11.2
99 17.2 16.4 15.7 15.0 14.3 13.6 13.0 12.4 11.8 11.2
100 17.1 16.4 15.7 15.0 14.3 13.6 12.9 12.3 11.7 11.1
101 17.1 16.4 15.6 14.9 14.2 13.6 12.9 12.3 11.7 11.1
102 17.1 16.4 15.6 14.9 14.2 13.5 12.9 12.2 11.6 11.0
103 17.1 16.3 15.6 14.9 14.2 13.5 12.9 12.2 11.6 11.0
104 17.1 16.3 15.6 14.9 14.2 13.5 12.8 12.2 11.6 11.0
105 17.1 16.3 15.6 14.9 14.2 13.5 12.8 12.2 11.5 10.9
106 17.1 16.3 15.6 14.8 14.1 13.5 12.8 12.2 11.5 10.9
107 17.0 16.3 15.6 14.8 14.1 13.4 12.8 12.1 11.5 10.9
108 17.0 16.3 15.5 14.8 14.1 13.4 12.8 12.1 11.5 10.9
109 17.0 16.3 15.5 14.8 14.1 13.4 12.8 12.1 11.5 10.9

110	17.0	16.3	15.5	14.8	14.1	13.4	12.7	12.1	11.5	10.9
111	17.0	16.3	15.5	14.8	14.1	13.4	12.7	12.1	11.5	10.8
112	17.0	16.3	15.5	14.8	14.1	13.4	12.7	12.1	11.5	10.8
113	17.0	16.3	15.5	14.8	14.1	13.4	12.7	12.1	11.4	10.8
114	17.0	16.3	15.5	14.8	14.1	13.4	12.7	12.1	11.4	10.8
115+	17.0	16.3	15.5	14.8	14.1	13.4	12.7	12.1	11.4	10.8

AGES 80 81 82 83 84 85 86 87 88 89

80	13.8	13.4	13.1	12.8	12.6	12.3	12.1	11.9	11.7	11.5
81	13.4	13.1	12.7	12.4	12.2	11.9	11.7	11.4	11.3	11.1
82	13.1	12.7	12.4	12.1	11.8	11.5	11.3	11.0	10.8	10.6
83	12.8	12.4	12.1	11.7	11.4	11.1	10.9	10.6	10.4	10.2
84	12.6	12.2	11.8	11.4	11.1	10.8	10.5	10.3	10.1	9.9
85	12.3	11.9	11.5	11.1	10.8	10.5	10.2	9.9	9.7	9.5
86	12.1	11.7	11.3	10.9	10.5	10.2	9.9	9.6	9.4	9.2
87	11.9	11.4	11.0	10.6	10.3	9.9	9.6	9.4	9.1	8.9
88	11.7	11.3	10.8	10.4	10.1	9.7	9.4	9.1	8.8	8.6
89	11.5	11.1	10.6	10.2	9.9	9.5	9.2	8.9	8.6	8.3
90	11.4	10.9	10.5	10.1	9.7	9.3	9.0	8.6	8.3	8.1
91	11.3	10.8	10.3	9.9	9.5	9.1	8.8	8.4	8.1	7.9
92	11.2	10.7	10.2	9.8	9.3	9.0	8.6	8.3	8.0	7.7
93	11.1	10.6	10.1	9.6	9.2	8.8	8.5	8.1	7.8	7.5
94	11.0	10.5	10.0	9.5	9.1	8.7	8.3	8.0	7.6	7.3
95	10.9	10.4	9.9	9.4	9.0	8.6	8.2	7.8	7.5	7.2
96	10.8	10.3	9.8	9.3	8.9	8.5	8.1	7.7	7.4	7.1
97	10.7	10.2	9.7	9.2	8.8	8.4	8.0	7.6	7.3	6.9
98	10.7	10.1	9.6	9.2	8.7	8.3	7.9	7.5	7.1	6.8
99	10.6	10.1	9.6	9.1	8.6	8.2	7.8	7.4	7.0	6.7
100	10.6	10.0	9.5	9.0	8.5	8.1	7.7	7.3	6.9	6.6
101	10.5	10.0	9.4	9.0	8.5	8.0	7.6	7.2	6.9	6.5
102	10.5	9.9	9.4	8.9	8.4	8.0	7.5	7.1	6.8	6.4
103	10.4	9.9	9.4	8.8	8.4	7.9	7.5	7.1	6.7	6.3
104	10.4	9.8	9.3	8.8	8.3	7.9	7.4	7.0	6.6	6.3
105	10.4	9.8	9.3	8.8	8.3	7.8	7.4	7.0	6.6	6.2
106	10.3	9.8	9.2	8.7	8.2	7.8	7.3	6.9	6.5	6.2

107	10.3	9.8	9.2	8.7	8.2	7.7	7.3	6.9	6.5	6.1
108	10.3	9.7	9.2	8.7	8.2	7.7	7.3	6.8	6.4	6.1
109	10.3	9.7	9.2	8.7	8.2	7.7	7.2	6.8	6.4	6.0
110	10.3	9.7	9.2	8.6	8.1	7.7	7.2	6.8	6.4	6.0
111	10.3	9.7	9.1	8.6	8.1	7.6	7.2	6.8	6.3	6.0
112	10.2	9.7	9.1	8.6	8.1	7.6	7.2	6.7	6.3	5.9
113	10.2	9.7	9.1	8.6	8.1	7.6	7.2	6.7	6.3	5.9
114	10.2	9.7	9.1	8.6	8.1	7.6	7.1	6.7	6.3	5.9
115+	10.2	9.7	9.1	8.6	8.1	7.6	7.1	6.7	6.3	5.9

AGES 90 91 92 93 94 95 96 97 98 99

90	7.8	7.6	7.4	7.2	7.1	6.9	6.8	6.6	6.5	6.4
91	7.6	7.4	7.2	7.0	6.8	6.7	6.5	6.4	6.3	6.1
92	7.4	7.2	7.0	6.8	6.6	6.4	6.3	6.1	6.0	5.9
93	7.2	7.0	6.8	6.6	6.4	6.2	6.1	5.9	5.8	5.6
94	7.1	6.8	6.6	6.4	6.2	6.0	5.9	5.7	5.6	5.4
95	6.9	6.7	6.4	6.2	6.0	5.8	5.7	5.5	5.4	5.2
96	6.8	6.5	6.3	6.1	5.9	5.7	5.5	5.3	5.2	5.0
97	6.6	6.4	6.1	5.9	5.7	5.5	5.3	5.2	5.0	4.9
98	6.5	6.3	6.0	5.8	5.6	5.4	5.2	5.0	4.8	4.7
99	6.4	6.1	5.9	5.6	5.4	5.2	5.0	4.9	4.7	4.5
100	6.3	6.0	5.8	5.5	5.3	5.1	4.9	4.7	4.5	4.4
101	6.2	5.9	5.6	5.4	5.2	5.0	4.8	4.6	4.4	4.2
102	6.1	5.8	5.5	5.3	5.1	4.8	4.6	4.4	4.3	4.1
103	6.0	5.7	5.4	5.2	5.0	4.7	4.5	4.3	4.1	4.0
104	5.9	5.6	5.4	5.1	4.9	4.6	4.4	4.2	4.0	3.8
105	5.9	5.6	5.3	5.0	4.8	4.5	4.3	4.1	3.9	3.7
106	5.8	5.5	5.2	4.9	4.7	4.5	4.2	4.0	3.8	3.6
107	5.8	5.4	5.1	4.9	4.6	4.4	4.2	3.9	3.7	3.5
108	5.7	5.4	5.1	4.8	4.6	4.3	4.1	3.9	3.7	3.5
109	5.7	5.3	5.0	4.8	4.5	4.3	4.0	3.8	3.6	3.4
110	5.6	5.3	5.0	4.7	4.5	4.2	4.0	3.8	3.5	3.3
111	5.6	5.3	5.0	4.7	4.4	4.2	3.9	3.7	3.5	3.3
112	5.6	5.3	4.9	4.7	4.4	4.1	3.9	3.7	3.5	3.2
113	5.6	5.2	4.9	4.6	4.4	4.1	3.9	3.6	3.4	3.2

114	5.6	5.2	4.9	4.6	4.3	4.1	3.9	3.6	3.4	3.2
115+	5.5	5.2	4.9	4.6	4.3	4.1	3.8	3.6	3.4	3.1

AGES 100 101 102 103 104 105 106 107 108 109

100	4.2	4.1	3.9	3.8	3.7	3.5	3.4	3.3	3.3	3.2
101	4.1	3.9	3.7	3.6	3.5	3.4	3.2	3.1	3.1	3.0
102	3.9	3.7	3.6	3.4	3.3	3.2	3.1	3.0	2.9	2.8
103	3.8	3.6	3.4	3.3	3.2	3.0	2.9	2.8	2.7	2.6
104	3.7	3.5	3.3	3.2	3.0	2.9	2.7	2.6	2.5	2.4
105	3.5	3.4	3.2	3.0	2.9	2.7	2.6	2.5	2.4	2.3
106	3.4	3.2	3.1	2.9	2.7	2.6	2.4	2.3	2.2	2.1
107	3.3	3.1	3.0	2.8	2.6	2.5	2.3	2.2	2.1	2.0
108	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	1.9	1.8
109	3.2	3.0	2.8	2.6	2.4	2.3	2.1	2.0	1.8	1.7
110	3.1	2.9	2.7	2.5	2.3	2.2	2.0	1.9	1.7	1.6
111	3.1	2.9	2.7	2.5	2.3	2.1	1.9	1.8	1.6	1.5
112	3.0	2.8	2.6	2.4	2.2	2.0	1.9	1.7	1.5	1.4
113	3.0	2.8	2.6	2.4	2.2	2.0	1.8	1.6	1.5	1.3
114	3.0	2.7	2.5	2.3	2.1	1.9	1.8	1.6	1.4	1.3
115+	2.9	2.7	2.5	2.3	2.1	1.9	1.7	1.5	1.4	1.2

AGES 110 111 112 113 114 115+

110	1.5	1.4	1.3	1.2	1.1	1.1
111	1.4	1.2	1.1	1.1	1.0	1.0
112	1.3	1.1	1.0	1.0	1.0	1.0
113	1.2	1.1	1.0	1.0	1.0	1.0
114	1.1	1.0	1.0	1.0	1.0	1.0
115+	1.1	1.0	1.0	1.0	1.0	1.0

Q-4. May the tables under this section be changed?

A-4. The Single Life Table, Uniform Lifetime Table and Joint and Last Survivor Table provided in A-1 through A-3 of this section may be changed by the

Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

Par. 3. Section 1.403(b)-3 is added to read as follows:

§1.403(b)-3 Required minimum distributions from annuity contracts purchased, or custodial accounts or retirement income accounts established, by a section 501(c)(3) organization or a public school.

Q-1. Are section 403(b) contracts subject to the distribution rules provided in section 401(a)(9)?

A-1. (a) Yes, section 403(b) contracts are subject to the distribution rules provided in section 401(a)(9). For purposes of this section, the term section 403(b) contract means an annuity contract described in section 403(b)(1), custodial account described in section 403(b)(7), or retirement income account described in section 403(b)(9).

(b) For purposes of applying the distribution rules in section 401(a)(9), section 403(b) contracts will be treated as individual retirement annuities described in section 408(b) and individual retirement accounts described in section 408(a) (IRAs). Consequently, except as otherwise provided in paragraph (c) of this A-1, the distribution rules in section 401(a)(9) will be applied to section 403(b) contracts in accordance with the provisions in §1.408-8 for purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2003.

(c)(1) The required beginning date for purposes of section 403(b)(10) is April 1 of the calendar year following the later of the calendar year in which the employee attains 70 1/2 or the calendar year in which the employee retires from employment with the employer maintaining the plan. The concept of 5-percent

owner has no application in the case of employees of employers described in section 403(b)(1)(A).

(2) The rule in A-5 of §1.408-8 does not apply to section 403(b) contracts. Thus, the surviving spouse of an employee is not permitted to treat a section 403(b) contract of which the spouse is the sole beneficiary as the spouse's own section 403(b) contract.

(3) Annuity payments provided with respect to retirement income accounts described in section 403(b)(9) will not fail to satisfy the requirements of A-4 of §1.401(a)(9)-6T merely because the payments are not made under an annuity contract purchased from an insurance company, provided the relationship between the annuity payments and the retirement income accounts is not inconsistent with any rules prescribed by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

Q-2. To what benefits under section 403(b) contracts do the distribution rules provided in section 401(a)(9) apply?

A-2. (a) The distribution rules provided in section 401(a)(9) apply to all benefits under section 403(b) contracts accruing after December 31, 1986 (post-'86 account balance). The distribution rules provided in section 401(a)(9) do not apply to the undistributed portion of the account balance under the section 403(b) contract valued as of December 31, 1986, exclusive of subsequent earnings (pre-'87 account balance). Consequently, the post-'86 account balance includes earnings after December 31, 1986 on contributions made before January 1, 1987, in addition to the contributions made after December 31, 1986 and earnings thereon.

(b) The issuer or custodian of the section 403(b) contract must keep records that enable it to identify the pre-'87 account balance and subsequent changes as set

forth in paragraph (b) of this A-2 and provide such information upon request to the relevant employee or beneficiaries with respect to the contract. If the issuer or custodian does not keep such records, the entire account balance will be treated as subject to section 401(a)(9).

(c) In applying the distribution rules in section 401(a)(9), only the post-'86 account balance is used to calculate the required minimum distribution for a calendar year. The amount of any distribution from a contract will be treated as being paid from the post-'86 account balance to the extent the distribution is required to satisfy the minimum distribution requirement with respect to that contract for a calendar year. Any amount distributed in a calendar year from a contract in excess of the required minimum distribution for a calendar year with respect to that contract will be treated as paid from the pre-'87 account balance, if any, of that contract.

(d) If an amount is distributed from the pre-'87 account balance and rolled over to another section 403(b) contract, the amount will be treated as part of the post-'86 account balance in that second contract. However, if the pre-'87 account balance under a section 403(b) contract is directly transferred to another section 403(b) contract, the amount transferred retains its character as a pre-'87 account balance, provided the issuer of the transferee contract satisfies the recordkeeping requirements of paragraph (b) of this A- 2.

(e) The distinction between the pre-'87 account balance and the post-'86 account balance provided for under this A-2 has no relevance for purposes of determining the portion of a distribution that is includible in income under section 72.

Q-3. Must the pre-'87 account balance be distributed in accordance with the incidental benefit requirement?

A-3. Yes, the pre-'87 account balance must be distributed in accordance with the incidental benefit requirement of §1.401- 1(b)(1)(i). Distributions attributable to

the pre-'87 account balance are treated as satisfying this requirement if all distributions from the section 403(b) contract (including distributions attributable to the post-'86 account balance) satisfy the requirements of §1.401-1(b)(1)(i) without regard to this section, and distributions attributable to the post-'86 account balance satisfy the rules of this section. Alternatively, distributions attributable to the pre-'87 account balance are treated as satisfying the incidental benefit requirement if all distributions from the section 403(b) contract (including distributions attributable to both the pre-'87 account balance and the post-'86 account balance) satisfy the rules of this section.

Q-4. Is the required minimum distribution from one section 403(b) contract of an employee permitted to be distributed from another section 403(b) contract in order to satisfy section 401(a)(9)?

A-4. Yes, as provided in paragraph (b) of A-1 of this section, the distribution rules in section 401(a)(9) will be applied to section 403(b) contracts in accordance with the provisions in §1.408-8. Thus, the required minimum distribution must be separately determined for each section 403(b) contract of an employee. However, as provided in A-9 of §1.408-8 with respect to IRAs, such amounts may then be totaled and the total distribution taken from any one or more of the individual section 403(b) contracts. However, consistent with the rules in A-9 of §1.408-8, only amounts in section 403(b) contracts that an individual holds as an employee may be aggregated. Amounts in section 403(b) contracts that an individual holds as a beneficiary of the same decedent may be aggregated, but such amounts may not be aggregated with amounts held in section 403(b) contracts that the individual holds as the employee or as the beneficiary of another decedent. Distributions from section 403(b) contracts or accounts will not satisfy the minimum distribution requirements for IRAs, nor will distributions from IRAs satisfy the minimum distribution requirements for section 403(b) contracts or accounts.

Par. 4. Section 1.408-8 is added to read as follows:

§1.408-8 Distribution requirements for individual retirement plans.

The following questions and answers relate to the distribution rules for IRAs provided in sections 408(a)(6) and 408(b)(3).

Q-1. Is an IRA subject to the distribution rules provided in section 401(a)(9) for qualified plans?

A-1. (a) Yes, an IRA is subject to the required minimum distribution rules provided in section 401(a)(9). In order to satisfy section 401(a)(9) for purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2003, the rules of §§1.401(a)(9)-1 through 1.401(a)(9)-9 and 1.401(a)(9)-6T for defined contribution plans must be applied, except as otherwise provided in this section. For example, whether the 5- year rule or the life expectancy rule applies to distributions after death occurring before the IRA owner's required beginning date is determined in accordance with §1.401(a)(9)-3 and the rules of §1.401(a)(9)-4 apply for purposes of determining an IRA owner's designated beneficiary. Similarly, the amount of the minimum distribution required for each calendar year from an individual account is determined in accordance with §1.401(a)(9)-5. For purposes of this section, the term IRA means an individual retirement account or annuity described in section 408(a) or (b). The IRA owner is the individual for whom an IRA is originally established by contributions for the benefit of that individual and that individual's beneficiaries.

(b) For purposes of applying the required minimum distribution rules in §§1.401(a)(9)-1 through 1.401(a)(9)-9 and 1.401(a)(9)-6T for qualified plans, the IRA trustee, custodian, or issuer is treated as the plan administrator, and the IRA owner is substituted for the employee.

(c) See A-14 and A-15 of §1.408A-6 for rules under section 401(a)(9) that apply to a Roth IRA.

Q-2. Are IRAs that receive employer contributions under a simplified employee pension (defined in section 408(k)) or a SIMPLE IRA (defined in section 408(p)) treated as IRAs for purposes of section 401(a)(9)?

A-2. Yes, IRAs that receive employer contributions under a simplified employee pension (defined in section 408(k)) or a SIMPLE plan (defined in section 408(p)) are treated as IRAs, rather than employer plans, for purposes of section 401(a)(9) and are, therefore, subject to the distribution rules in this section.

Q-3. In the case of distributions from an IRA, what does the term required beginning date mean?

A-3. In the case of distributions from an IRA, the term required beginning date means April 1 of the calendar year following the calendar year in which the individual attains age 70 1/2.

Q-4. What portion of a distribution from an IRA is not eligible for rollover because the amount is a required minimum distribution?

A-4. The portion of a distribution that is a required minimum distribution from an IRA and thus not eligible for rollover is determined in the same manner as provided in A-7 of §1.402(c)-2 for distributions from qualified plans. For example, if a minimum distribution is required under section 401(a)(9) for a calendar year, an amount distributed during a calendar year from an IRA is treated as a required minimum distribution under section 401(a)(9) to the extent that the total required minimum distribution for the year under section 401(a)(9) for that IRA has not been satisfied. This requirement may be satisfied by a distribution from the IRA or, as permitted under A-9 of this section, from another IRA.

Q-5. May an individual's surviving spouse elect to treat such spouse's entire interest as a beneficiary in an individual's IRA upon the death of the individual (or the remaining part of such interest if distribution to the spouse has commenced) as the spouse's own account?

A-5. (a) The surviving spouse of an individual may elect, in the manner described in paragraph (b) of this A-5, to treat the spouse's entire interest as a beneficiary in an individual's IRA (or the remaining part of such interest if distribution thereof has commenced to the spouse) as the spouse's own IRA. This election is permitted to be made at any time after the individual's date of death. In order to make this election, the spouse must be the sole beneficiary of the IRA and have an unlimited right to withdraw amounts from the IRA. If a trust is named as beneficiary of the IRA, this requirement is not satisfied even if the spouse is the sole beneficiary of the trust. If the surviving spouse makes the election, the required minimum distribution for the calendar year of the election and each subsequent calendar year is determined under section 401(a)(9)(A) with the spouse as IRA owner and not section 401(a)(9)(B) with the surviving spouse as the deceased IRA owner's beneficiary. However, if the election is made in the calendar year containing the IRA owner's death, the spouse is not required to take a required minimum distribution as the IRA owner for that calendar year. Instead, the spouse is required to take a required minimum distribution for that year, determined with respect to the deceased IRA owner under the rules of A-4(a) of §1.401(a)(9)-5, to the extent such a distribution was not made to the IRA owner before death.

(b) The election described in paragraph (a) of this A-5 is made by the surviving spouse redesignating the account as an account in the name of the surviving spouse as IRA owner rather than as beneficiary. Alternatively, a surviving spouse eligible to make the election is deemed to have made the election if, at any time, either of the following occurs --

(1) Any amount in the IRA that would be required to be distributed to the surviving spouse as beneficiary under section 401(a)(9)(B) is not distributed within the time period required under section 401(a)(9)(B); or

(2) Any additional amount is contributed to the IRA which is subject, or deemed to be subject, to the lifetime distribution requirements of section 401(a)(9)(A).

(c) The result of an election described in paragraph (b) of this A-5 is that the surviving spouse shall then be considered the IRA owner for whose benefit the trust is maintained for all purposes under the Internal Revenue Code (e.g., section 72(t)).

Q-6. How is the benefit determined for purposes of calculating the required minimum distribution from an IRA?

A-6. For purposes of determining the minimum distribution required to be made from an IRA in any calendar year, the account balance of the IRA as of December 31 of the calendar year immediately preceding the calendar year for which distributions are required to be made is substituted in A-3 of §1.401(a)(9)-5 for the account balance of the employee. Except as provided in A-7 and A-8 of this section, no adjustments are made for contributions or distributions after that date.

Q-7. What rules apply in the case of a rollover to an IRA of an amount distributed by a qualified plan or another IRA?

A-7. If the surviving spouse of an employee rolls over a distribution from a qualified plan, such surviving spouse may elect to treat the IRA as the spouse's own IRA in accordance with the provisions in A-5 of this section. In the event of any other rollover to an IRA of an amount distributed by a qualified plan or another IRA, the rules in §1.401(a)(9)-7 will apply for purposes of determining the account balance for the receiving IRA and the required minimum distribution from

the receiving IRA. However, because the value of the account balance is determined as of December 31 of the year preceding the year for which the required minimum distribution is being determined and not as of a valuation date in the preceding year, the account balance of the receiving IRA is only adjusted if the amount is not received in the calendar year in which the amount rolled over is distributed. In that case, for purposes of determining the required minimum distribution for the calendar year in which such amount is actually received, the account balance of the receiving IRA as of December 31 of the preceding year must be adjusted by the amount received in accordance with A-2 of §1.401(a)(9)-7.

Q-8. What rules apply in the case of a transfer (including a recharacterization) from one IRA to another?

A-8. (a) General rule. In the case of a trustee-to- trustee transfer from one IRA to another IRA that is not a distribution and rollover, the transfer is not treated as a distribution by the transferor IRA for purposes of section 401(a)(9). Accordingly, the minimum distribution requirement with respect to the transferor IRA must still be satisfied. Except as provided in paragraph (b) of this A-8 for recharacterizations, after the transfer the employee's account balance and the required minimum distribution under the transferee IRA are determined in the same manner as an account balance and required minimum distribution are determined under an IRA receiving a rollover contribution under A-7 of this section.

(b) Recharacterizations. If an amount is contributed to a Roth IRA that is a conversion contribution or failed conversion contribution and that amount (plus net income allocable to that amount) is transferred to another IRA (transferee IRA) in a subsequent year as a recharacterized contribution, the recharacterized contribution (plus allocable net income) must be added to the December 31

account balance of the transferee IRA for the year in which the conversion or failed conversion occurred.

Q-9. Is the required minimum distribution from one IRA of an owner permitted to be distributed from another IRA in order to satisfy section 401(a)(9)?

A-9. Yes, the required minimum distribution must be calculated separately for each IRA. The separately calculated amounts may then be totaled and the total distribution taken from any one or more of the individual's IRAs under the rules set forth in this A-9. Generally, only amounts in IRAs that an individual holds as the IRA owner may be aggregated. However, amounts in IRAs that an individual holds as a beneficiary of the same decedent and which are being distributed under the life expectancy rule in section 401(a)(9)(B)(iii) or (iv) may be aggregated, but such amounts may not be aggregated with amounts held in IRAs that the individual holds as the IRA owner or as the beneficiary of another decedent. Distributions from section 403(b) contracts or accounts will not satisfy the distribution requirements from IRAs, nor will distributions from IRAs satisfy the distribution requirements from section 403(b) contracts or accounts. Distributions from Roth IRAs (defined in section 408A) will not satisfy the distribution requirements applicable to IRAs or section 403(b) accounts or contracts and distributions from IRAs or section 403(b) contracts or accounts will not satisfy the distribution requirements from Roth IRAs.

Q-10. Is any reporting required by the trustee, custodian, or issuer of an IRA with respect to the minimum amount that is required to be distributed from that IRA?

A-10. Yes, the trustee, custodian, or issuer of an IRA is required to report information with respect to the minimum amount required to be distributed from the IRA for each calendar year to individuals or entities, at the time, and in the manner, prescribed by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin (see §601.601(d)(2)(ii)(b) of

this chapter) as well as the applicable Federal tax forms and accompanying instructions.

Q.-11. Which amounts distributed from an IRA are taken into account in determining whether section 401(a)(9) is satisfied?

A-11. (a) General rule. Except as provided in paragraph (b) of this A-11, all amounts distributed from an IRA are taken into account in determining whether section 401(a)(9) is satisfied, regardless of whether the amount is includible in income.

(b) Amounts not taken into account. The following amounts are not taken into account in determining whether the required minimum amount with respect to an IRA for a calendar year has been distributed --

(1) Contributions returned pursuant to section 408(d)(4), together with the income allocable to these contributions;

(2) Contributions returned pursuant to section 408(d)(5);

(3) Corrective distributions of excess simplified employee pension contributions under section 408(k)(6)(C), together with the income allocable to these distributions; and

(4) Similar items designated by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

PART 54 -- PENSION EXCISE TAXES

Par. 5. The authority for part 54 is amended by adding the following citation to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 54.4974-2 also issued under 26 U.S.C. 4974. ***

Par. 6. Section after §54.4974-2 is added to read as follows:

§54.4974-2 Excise tax on accumulations in qualified retirement plans.

Q-1. Is any tax imposed on a payee under any qualified retirement plan or any eligible deferred compensation plan (as defined in section 457(b)) to whom an amount is required to be distributed for a taxable year if the amount distributed during the taxable year is less than the required minimum distribution?

A-1. Yes, 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 such year, an excise tax is imposed on such payee under section 4974 for the taxable year beginning with or within the calendar year during which the amount is required to be distributed. The tax is equal to 50 percent of the amount by which such required minimum distribution exceeds the actual amount distributed during the calendar year. Section 4974 provides that this tax shall be paid by the payee. For purposes of section 4974, the term required minimum distribution means the minimum distribution 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, and the regulations thereunder. Except as otherwise provided in A-6 of this section, the required minimum distribution for a calendar year is the required minimum distribution amount required to be distributed during the calendar year. A-6 of this section provides a special rule for amounts required to be distributed by an employee's (or individual's) required beginning date.

Q-2. For purposes of section 4974, what is a qualified retirement plan?

A-2. For purposes of section 4974, each of the following is a qualified retirement plan --

- (a) A plan described in section 401(a) which includes a trust exempt from tax under section 501(a);
- (b) An annuity plan described in section 403(a);
- (c) An annuity contract, custodial account, or retirement income account described in section 403(b);
- (d) An individual retirement account described in section 408(a) (including a Roth IRA described in section 408A);
- (e) An individual retirement annuity described in section 408(b) (including a Roth IRA described in section 408A); or
- (f) Any other plan, contract, account, or annuity that, at any time, has been treated as a plan, account, or annuity described in paragraphs (a) through (e) of this A-2, whether or not such plan, contract, account, or annuity currently satisfies the applicable requirements for such treatment.

Q-3. If a payee's interest under a qualified retirement plan is in the form of an individual account, how is the required minimum distribution for a given calendar year determined for purposes of section 4974?

A-3. (a) General rule. If a payee's interest under a qualified retirement plan is in the form of an individual account and distribution of such account is not being made under an annuity contract purchased in accordance with A-4 of §1.401(a)(9)-6T, the amount of the required minimum distribution for any calendar year for purposes of section 4974 is the required minimum distribution amount required to be distributed for such calendar year in order to satisfy the minimum distribution requirements in §1.401(a)(9)-5 as provided in the following (whichever is applicable) --

(1) Section 401(a)(9) and §§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) which includes a trust exempt under section 501(a) or an annuity plan described in section 403(a);

(2) Section 403(b)(10) and §1.403(b)-3 (in the case of an annuity contract, custodial account, or retirement income account described in section 403(b));

(3) 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

(4) Section 457(d) in the case of an eligible deferred compensation plan (as defined in section 457(b)).

(b) Default provisions. Unless otherwise provided under the qualified retirement plan (or, if applicable, the governing instrument of the qualified retirement plan), the default provisions in A-4(a) of §1.401(a)(9)-3 apply in determining the required minimum distribution for purposes of section 4974.

(c) Five-year rule. If the 5-year rule in section 401(a)(9)(B)(ii) applies to the distribution to a payee, no amount is required to be distributed for any calendar year to satisfy the applicable enumerated section in paragraph (a) of this A-3 until the calendar year which contains the date 5 years after the date of the employee's death. For the calendar year which contains the date 5 years after the employee's death, the required minimum distribution amount required to be distributed to satisfy the applicable enumerated section is the payee's entire remaining interest in the qualified retirement plan.

Q-4. If a payee's interest in a qualified retirement plan is being distributed in the form of an annuity, how is the amount of the required minimum distribution determined for purposes of section 4974?

A-4. If a payee's interest in a qualified retirement 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), the amount of the required minimum distribution for purposes of section 4974 will be determined as follows:

(a) Permissible annuity distribution option. A permissible annuity distribution option is an annuity contract (or, in the case of annuity distributions from a defined benefit plan, a distribution option) which specifically provides for distributions which, 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 (a) of A-2 of this section for every calendar year. 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, the required minimum distribution for a given calendar year will equal the amount which the annuity contract (or distribution option) provides is to be distributed for that calendar year.

(b) Impermissible annuity distribution option. An impermissible annuity distribution option is an 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 that specifically provides for distributions which, if made as provided, would for any calendar year be less than the minimum distribution amount required to be distributed to satisfy the applicable section enumerated in paragraph (a) of A-3 of this section. 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, the required minimum distribution for each calendar year will be determined as follows:

(1) If the qualified retirement plan under which distributions are being made is a defined benefit plan, the minimum distribution amount required to be distributed each year will be the amount which would have been distributed under the plan if the distribution option under which distributions to the payee were being made was the following permissible annuity distribution option:

(i) In the case of distributions commencing before the death of the employee, if there is a designated beneficiary under the impermissible annuity distribution option for purposes of section 401(a)(9), the 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 provides for the greatest level amount payable to the employee determined on an annual basis. If the plan does not provide such an option or there is no designated beneficiary under the impermissible distribution option for purposes of section 401(a)(9), the 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.

(ii) In the case of distributions commencing after the death of the employee, if there is a designated beneficiary under the impermissible annuity distribution option for purposes of section 401(a)(9), the permissible annuity distribution option is the life annuity option under the plan payable for the life of the designated beneficiary in level amounts. If there is no designated beneficiary, the 5-year rule in section 401(a)(9)(B)(ii) applies. See paragraph (b)(3) of this A-4. The determination of whether or not there is a designated beneficiary and the determination of which designated beneficiary's life is to be used in the case of multiple beneficiaries will be made in accordance with §1.401(a)(9)-4 and A-7 of §1.401(a)(9)-5. If the defined benefit plan does not provide for distribution in the form of the applicable permissible distribution option, the required minimum distribution for each calendar year will be an amount as determined by the Commissioner.

(2) If the qualified retirement 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, the minimum distribution amount required to be distributed each year will be the amount that would have been distributed in the form of an annuity contract under the permissible annuity distribution option under the plan determined in accordance with paragraph (b)(1) of this A-4 for defined benefit plans. If the defined contribution plan does not provide the applicable permissible annuity distribution option, the required minimum distribution for each calendar year will be the amount that would have been distributed under an annuity described in paragraph (b)(2)(i) or (ii) of this A-4 purchased with the employee's or individual's account used to purchase the annuity contract that is the impermissible annuity distribution option.

(i) In the case of distributions commencing before the death of the employee, if there is a designated beneficiary under the impermissible annuity distribution option for purposes of section 401(a)(9), the annuity is a joint and survivor annuity for the lives of the employee and the designated beneficiary which provides level annual payments and which would have been a permissible annuity distribution option. However, the amount of the periodic payment which would have been payable to the survivor will be the applicable percentage under the table in A-2(c) of §1.401(a)(9)-6T of the amount of the periodic payment which would have been payable to the employee or individual. If there is no designated beneficiary under the impermissible distribution option for purposes of section 401(a)(9), the annuity is a life annuity for the life of the employee with no survivor benefit which provides level annual payments and which would have been a permissible annuity distribution option.

(ii) In the case of a distribution commencing after the death of the employee, if there is a designated beneficiary under the impermissible annuity distribution option for purposes of section 401(a)(9), the annuity option is a life annuity for the

life of the designated beneficiary which provides level annual payments and which would have been a permissible annuity distribution option. If there is no designated beneficiary, the 5-year rule in section 401(a)(9)(B)(ii) applies. See paragraph (b)(3) of this A-4. The amount of the payments under the annuity contract will be determined using the interest rate and actuarial tables prescribed under section 7520 determined using the date determined under A-3 of §1.401(a)(9)-3 when distributions are required to commence and using the age of the beneficiary as of the beneficiary's birthday in the calendar year that contains that date. The determination of whether or not there is a designated beneficiary and the determination of which designated beneficiary's life is to be used in the case of multiple beneficiaries will be made in accordance with §1.401(a)(9)-4 and A-7 of §1.401(a)(9)-5.

(3) 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), no amount is required to be distributed to satisfy the applicable enumerated section in paragraph (a) of this A-4 until the calendar year which contains the date 5 years after the date of the employee's death. For the calendar year which contains the date 5 years after the employee's death, the required minimum distribution 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).

(4) If the plan provides 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 the employee attained age 70 1/2 in accordance with paragraph A-2(e) of §1.401(a)(9)-2, the required minimum distribution for each calendar year for an employee who is not a 5-percent owner for purposes of this section will be the lesser of the amount determined based on the required beginning date as set forth in A-2(a) of §1.401(a)(9)-2 or the required beginning date under the plan. Thus, for example, if an employee dies after attaining age 70 1/2, but before April

1 of the calendar year following the calendar in which the employee retired, and there is no designated beneficiary as of September 30 of the year following the employee's year of death, required minimum distributions for calendar years after the calendar year containing the employee's date of death may be based on either the applicable distribution period provided under either the 5-year rule of A-1 of §1.401(a)(9)-3 or the employee's remaining life expectancy as set forth in A-5(c)(3) of §1.401(a)(9)-5.

Q-5. If there is any remaining benefit with respect to an employee (or IRA owner) after any calendar year in which the entire remaining benefit is required to be distributed under section 401(a)(9), what is the amount of the required minimum distribution for each calendar year subsequent to such calendar year?

A-5. 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 such calendar year is the entire remaining benefit.

Q-6. With respect to which calendar year is the excise tax under section 4974 imposed in the case in which the amount not distributed is an amount required to be distributed by April 1 of a calendar year (by the employee's or individual's required beginning date)?

A-6. In the case in which the amount not paid is an amount required to be paid by April 1 of a calendar year, such amount is a required minimum distribution for the previous calendar year, i.e., for the employee's or the individual's first distribution calendar year. However, the excise tax under section 4974 is imposed for the calendar year containing the last day by which the amount is required to be distributed, i.e., the calendar year containing 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 which contains the

employee's or individual's required beginning date. Such distribution is also required to be made during the calendar year which contains the employee's or individual's required beginning date.

Q-7. Are there any circumstances when the excise tax under section 4974 for a taxable year may be waived?

A-7. (a) Reasonable cause. The tax under section 4974(a) may be waived if the payee described in section 4974(a) establishes to the satisfaction of the Commissioner the following --

(1) The shortfall described in section 4974(a) in the amount distributed in any taxable year was due to reasonable error; and

(2) Reasonable steps are being taken to remedy the shortfall.

(b) Automatic waiver. The tax under section 4974 will be automatically waived, unless the Commissioner determines otherwise, if --

(1) The payee described in section 4974(a) is an individual who is the sole beneficiary and whose required minimum distribution amount for a calendar year is determined under the life expectancy rule described in §1.401(a)(9)-3 A-3 in the case of an employee's or individual's death before the employee's or individual's required beginning date; and

(2) The employee's or individual's entire benefit to which that beneficiary is entitled is distributed by the end of the fifth calendar year following the calendar year that contains the employee's or individual's date of death.

PART 602 -- OMB CONTROL NUMBERS UNDER THE PAPERWORK
REDUCTION ACT

Par. 7. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7808.

Par. 8. In §602.101, paragraph (b) is amended by adding entries for "1.401(a)(9)-1", "1.401(a)(9)-3", "1.401(a)(9)-4", and "1.403(b)-3" in numerical order to the table to read in part as follows:

§602.101 OMB Control numbers.

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(b) * * *

CFR part or section where identified and described	Current OMB control No.
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1.401(a)(9)-1	1545-1573
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1.401(a)(9)-3	1545-1466
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1.401(a)(9)-4	1545-1573
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1.403(b)-3	1545-0996
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Robert E. Wenzel
Deputy Commissioner of Internal Revenue.

Approved: March 26, 2002

Mark Weinberger
Assistant Secretary of the Treasury.
