

## **Treasury Regulation 1.401(a)(9)-2**

### **Distributions commencing during an employee's lifetime**

#### **(a) *Distributions commencing during an employee's lifetime—***

(1) *In general.* In order to satisfy section 401(a)(9)(A), the entire interest of each employee must be distributed to the 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 the 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. Under section 401(a)(9)(G), lifetime distributions must satisfy the incidental death benefit requirements of §1.401-1(b)(1).

(2) *Amount required to be distributed for a calendar year.* 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 the amount to be distributed is from an individual account under a defined contribution plan, is an annuity payment from a defined benefit plan, or is a payment 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 under an annuity contract (including an annuity contract purchased under a defined contribution plan), see §1.401(a)(9)-6.

#### **(3) *Distributions commencing before required beginning date—***

(i) *In general.* Lifetime distributions made before the employee's required beginning date for calendar years before the employee's first distribution calendar year, as defined in §1.401(a)(9)-5(a)(2)(ii), 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) and, under the terms of that distribution option, distributions to be made for the employee's first distribution calendar year (or any subsequent calendar year) will fail to satisfy section 401(a)(9), then the distribution option fails to satisfy section 401(a)(9) at the time distributions commence.

(ii) *Date distributions are treated as having begun.* Except as otherwise provided

in paragraph (a)(3)(iii) of this section and §1.401(a)(9)-6(k), distributions to the employee are not treated as having begun in accordance with section 401(a)(9)(A)(ii) until the employee's required beginning date, as determined in accordance with paragraph (b)(1) or (3) of this section, whichever applies to the employee. The preceding sentence applies even if the employee has received distributions before the employee's required beginning date (either pursuant to plan terms that require distributions to begin by an earlier date or pursuant to the employee's election). Thus, even if payments have been made before the employee's required beginning date, the rules of §1.401(a)(9)-3 will apply if the employee dies before that date. For example, if A is an employee who retires in 2023, the calendar year A attains age 71, 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, 2026 (the April 1 following the calendar year in which A attains age 73). Consequently, if A dies before April 1, 2026 (A's required beginning date), distributions after A's death must be made in accordance with §1.401(a)(9)-3 (addressing payments to beneficiaries pursuant to section 401(a)(9)(B)(ii), (iii), or (iv), whichever applies, in cases in which required distributions have not begun) rather than section 401(a)(9)(B)(i) (addressing payments to beneficiaries in cases in which required distributions have begun). This is the case without regard to whether, before A's death, the plan distributed the minimum distribution for the A's first distribution calendar year (as defined in §1.401(a)(9)-5(a)(2)(ii)).

(iii) *Exception for uniform required beginning date.* If a plan provides, in accordance with paragraph (b)(4) 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 described in paragraph (b)(1)(i) of this section, without regard to whether the employee is a 5-percent owner, then an employee who dies on or after the required beginning date determined under the plan terms is treated as dying after distributions have begun in accordance with section 401(a)(9)(A)(ii) (even if the employee dies before the April 1 following the calendar year in which the employee retires).

(4) *Distributions after death.* Section 401(a)(9)(B)(i) provides that, if the distribution of an employee's interest has begun in accordance with section 401(a)(9)(A)(ii), and the employee dies before the employee's entire interest has been distributed

to the employee, the remaining portion of the employee's 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 the employee's death. For the method of determining the required minimum distribution in accordance with section 401(a)(9)(B)(i) from an individual account under a defined contribution plan, see §1.401(a)(9)-5. In the case of annuity payments from a defined benefit plan or under an annuity contract (including an annuity contract purchased under a defined contribution plan), see §1.401(a)(9)-6.

*(b) Determination of required beginning date—*

(1) *General rule.* Except as otherwise provided in this paragraph (b), the employee's required beginning date (within the meaning of section 401(a)(9)(C)) is April 1 of the calendar year following the later of--

- (i) The calendar year in which the employee attains the applicable age; and
- (ii) The calendar year in which the employee retires from employment with the employer maintaining the plan.

*(2) Definition of applicable age—*

- (i) *In general.* The applicable age is determined using the employee's date of birth as set forth in this paragraph (b)(2).
- (ii) *Employees born before July 1, 1949.* In the case of an employee born before July 1, 1949, the applicable age is age 70½.
- (iii) *Other employees born before 1951.* In the case of an employee born on or after July 1, 1949, but before January 1, 1951, the applicable age is age 72;
- (iv) *Employees born in 1951 through 1958.* In the case of an employee born on or after January 1, 1951, but before January 1, 1959, the applicable age is age 73;
- (v) [Reserved]
- (vi) *Employees born after 1959.* In the case of an employee born on or after January 1, 1960, the applicable age is age 75.

*(3) Required beginning date for 5-percent owner—*

- (i) *In general.* In the case of an employee who is a 5-percent owner, the employee's required beginning date is April 1 of the calendar year following the calendar year in which the employee attains the applicable age.
- (ii) *Definition of 5-percent owner.* 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 the applicable age.

(iii) *No applicability to governmental plan or church plan.* This paragraph (b)(3) does not apply in the case of a governmental plan (within the meaning of section 414(d)) or a church plan (within the meaning of §1.401(a)(9)-6(g)(4)(i)).

(4) *Uniform required beginning date.* 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 described in paragraph (b)(1)(i) of this section, without regard to whether the employee is a 5-percent owner.

(5) *Plans maintained by more than one employer.* In the case of a plan maintained by more than one employer, an employee who retires from employment with any of those employers but continues to be employed by another employer that maintains the plan is not treated as having retired for purposes of paragraph (b)(1)(ii) of this section.