TAXATION OF DISTRIBUTIONS FROM IRAs, 403(b)s AND QUALIFIED RETIREMENT PLANS

All distributions from any of these plans are taxed as ordinary income except for distributions of any after-tax contributions and qualified distributions from a Roth IRA. Additionally, under certain circumstances, penalty taxes may apply.

VOLUNTARY DISTRIBUTIONS - TAX FREE

ROTH IRAS.

Plan established for five calendar years ***and***:

1. After age 59 ½
2. Death
3. Permanent disability
4. First time home purchase ($10,000 lifetime limit)

(Principal may be withdrawn free at any time.)

VOLUNTARY DISTRIBUTIONS - PENALTY FREE

ALL PLANS *(IRAs, 403(b)s and Qualified Retirement Plans)*

1. After age 59 ½
2. Death
3. Permanent disability
4. Timely removal of an excess contribution or deferral (before tax filing deadline)

IRAS ONLY. *(including SEP and SIMPLE)*

5. In the form of substantially equal payments over single or joint life expectancy (must continue for at least 5 years and until age 59 ½)
6. Qualified post-secondary education (for participant, spouse, & child/grandchild of participant or spouse)
7. Deductible medical expenses (and for certain unemployed individuals, health insurance premiums)
8. Conversion from a Traditional to a Roth IRA
9. First time home purchase ($10,000 lifetime)

OTHER RETIREMENT PLANS ONLY *(403(b), 401(k), etc.)*

5. Upon separation from service:
   - After age 55, or
   - In substantially equal payments over single or joint life expectancy (must continue for at least 5 yrs. and until 59 ½)
6. To an alternate payee pursuant to a qualified domestic relations order (QDRO)
7. For medical care, not to exceed the amount allowable as a deduction under Code Section 213
8. Dividends paid with respect to stock of qualifying corporations

VOLUNTARY DISTRIBUTIONS - SUBJECT TO PENALTY

IRAS *(including SEP and SIMPLE)*

- All distributions other than those noted above are subject to a federal tax penalty of 10% of the amount includable in gross income, except for distributions taken in the first two years of plan participation in a SIMPLE IRA, which incur a penalty of 25%.

403(b) AND 401(k) PLANS

- Hardship distributions are available but subject to a federal tax penalty of 10%. Withdrawals are allowable only for immediate and heavy financial need and when no other resources are reasonably available to satisfy the need.

  The safe harbor list of needs includes:
  - Medical expenses of participant, spouse, or dependents
  - Purchase of principal residence (not including mortgage payments)
  - Next 12 months of post-secondary tuition and related fees (including spouse and dependents)
  - Prevention of eviction or foreclosure of mortgage on principal residence

MANDATORY DISTRIBUTIONS

ROTH IRAS

- No minimum distributions are required during the life of the original owner.

ALL OTHER IRAS *(including SEP and, SIMPLE)*

- Minimum distributions based on single or joint life expectancy required beginning by April 1 of the year following the year the owner attains age 70 ½.
- Failure to take minimum distributions incurs a tax penalty of 50% of the amount by which the distribution is short.

OTHER RETIREMENT PLANS

- Minimum distributions are required by April 1st of the year following the year the owner attains age 70 ½ or retirement, whichever is later. However, 5% owners of the sponsoring company must begin distributions by April 1 of the year following the year they reach 70 ½, even if still working.
- Failure to take minimum distributions incurs a tax penalty of 50% of the amount by which the distribution is short.
- There is an exception for any pre-1987 account balances in a 403(b) plan, which are exempt from minimum distribution requirements until age 75.

REQUIRED MINIMUM DISTRIBUTIONS AT DEATH

If the Owner Dies . . .	*. . . And the Designated Beneficiary is . . .*			
BEFORE REQUIRED BEGINNING DATE [a]	**SPOUSE**	**NON-SPOUSE**	**TRUST** (under certain conditions)[g]	**ESTATE / CHARITY / OTHER TRUSTS** [h] **OR UNSPECIFIED**
	1. Withdraw by Dec. 31st of the 5th year after death	1. Same	1. Same	1. Same
	2. Withdraw over beneficiary's single life expectancy beginning by Dec. 31st of year after death [b], [i]	2. Same [b], [d], [f], [i] (Term certain only)	2. Same, based on life expectancy of oldest beneficiary [i][k]	
	3. Defer payments until owner would have been 70½ - then withdraw based on beneficiary's single life expectancy			
	4. Rollover to own IRA or other retirement plan and designate new beneficiary[c]			
AFTER REQUIRED BEGINNING DATE				
	1. Withdraw over larger of owner's or beneficiary's single life expectancy beginning by Dec. 31of year after death death[b], [i]	1. Same [b], [d], [f], [i], [j]	1. Same, based on life expectancy of oldest beneficiary [i][k]	1. Withdraw over owner's life expectancy beginning by Dec. 31 of year after death [j]
	2. Accelerate	2. Same	2. Same	2. Same
	3. Rollover to own IRA or other retirement plan and designate new beneficiary [c], [e]			

NOTES:

1) Even if the owner has retired and regular payments have begun, distribution is not deemed to have "commenced" for these purposes until the ***required*** beginning date. The exception to this would be payments being received pursuant to an irrevocable annuity contract.
2) Since Roth IRAs have no required distributions during the life of the original owner, distributions at death are treated as if death occurred ***before*** the required beginning date.
3) Upon inheritance of an IRA, a beneficiary is best advised to name a successor beneficiary. In the event of death of the original beneficiary prior to completion of the IRA distribution schedule, a designated successor beneficiary may continue receiving distributions based upon the original beneficiary's remaining payout schedule rather than being required to take a lump sum settlement.
4) Despite these guidelines, the custodial plan document controls.

FOOTNOTES TO 'REQUIRED MINIMUM DISTRIBUTIONS AT DEATH'

(a) The required beginning date is age 70 ½ for all IRAs other than Roth IRAs. For other retirement plans, it is age 70 ½ or retirement, whichever is later; however 5% owners of the sponsoring company must begin at age 70 ½, even if still working. For Roth IRAs, no distributions are required during the original owner's lifetime; however after the owner's death, distributions to beneficiaries are subject to the same rules as for Traditional IRAs

(b) Beneficiaries must make sure to take the first distribution by Dec. 31st of the year following the death of the IRA owner. Failure to meet the deadline means forfeiting the right to stretch distributions over the life of the beneficiary. Instead, all funds must be paid out over the remaining life expectancy of the original owner, beginning in the year of death.

(c) A potential disadvantage of the rollover, for the spouse under age 59 ½ who might need the funds before reaching that age is that it would subject any distributions prior to age 59 ½ to the 10% penalty tax. If that is a concern, a partial rollover might be appropriate. Note that the rollover election will be deemed to be made if (1) any required minimum distribution has not been made, or (2) any additional amounts are contributed to the account. Alternatively, if the spouse takes distributions, the right to a rollover from that specific account is automatically forfeited.

(d) Where there are multiple beneficiaries, as long as the IRA is segregated into multiple individual accounts by December 31 of the year following death, each beneficiary may use his/her own life expectancy. Otherwise, the life expectancy of the oldest beneficiary must be used in determining the distribution schedule. A further benefit of segregating the IRA is the elimination of potential problems if one beneficiary desires a different distribution schedule or investment allocation. In instances where one or more beneficiaries choose to take their benefits in cash or, alternatively, disclaim their interest(s), the distribution schedule will be based on the life expectancies of any beneficiaries remaining as of September 30 of the year following the owner's death, which is the deadline for establishing the IRA's remaining beneficiaries.

(e) The required minimum distribution for the current year may not be rolled over.

(f) Private Letter Rulings indicate that, although not eligible for a rollover to their own IRA, a non-spouse beneficiary may transfer an inherited IRA to another IRA custodian. (To avoid having this treated as a distribution, great care should be taken to be sure the inherited IRA stays registered in the name of the deceased original owner, with the date of death and the beneficiary's name and social security number added to the title.) Additionally, the Pension Protection Act of 2006 permits a direct rollover from a qualified plan to an IRA by a non-spouse beneficiary. IRS Notice 2007-7 specifies that this provision extends to annuity plans described in IRC Section 403(a) or (b) and to eligible governmental deferred compensation plans under IRC Section 457(b). However, a plan is not required to offer direct rollovers.

(g) The four requirements that a trust must satisfy are: (1) the trust must be a valid trust under state law; (2) the trust must be irrevocable or will, by its terms, become irrevocable on the death of the IRA owner; (3) the beneficiaries of the trust must be identifiable from the trust instrument; (4) a copy of the trust document must be provided to the plan administrator by December 31 of the year following death.

(h) It is never advisable to name the estate as beneficiary because an estate is not a "designated beneficiary" for purposes of the minimum distribution rules. Thus, if the participant dies before his required beginning date, distribution must be made over five years, and if he dies after his required beginning date, distribution must be based on the participant's remaining life expectancy rather than that of younger beneficiaries. (Charities or a trust that does not meet the necessary requirements are also treated as having no designated beneficiary but may be selected for other reasons. Also, in the case of a charity, the 5 year rule for distribution is not a drawback, because the charity is exempt from income tax.) Of further note, if any of these entities is named as a beneficiary, even when there are other individuals listed as beneficiaries, the owner will be treated as having no designated beneficiary. However, there is the potential under the regulations proposed in 2001 to reform trusts, cash out a charity or other beneficiary, and assign or separate other interests to maximize tax deferral benefits.

(i) The beneficiary's life expectancy is based on his/her birthday in the year *following* the year of the owner's death, reduced by one for every calendar year thereafter.

(j) The owner's life expectancy is based on his/her birthday in the calendar year of death, reduced by one for every calendar year thereafter.

(k) Several 2004 Private Letter Rulings allowed beneficiaries of a trust qualifying as a "designated beneficiary" (see 'g' above) to segregate the IRA into multiple individual IRA's and receive required minimum distributions based upon each individual's life expectancy. The ruling resulted from the fact that the trust explicitly provided that its assets should be distributed in this manner. Nonetheless, Private Letter Rulings are not technically treated as precedent and may not be considered by IRA custodians.

MAXIMUM ANNUAL RETIREMENT PLAN CONTRIBUTIONS

Key regulations governing defined contribution plans :

INTERNAL REVENUE CODE SECTIONS

Section 415(c) - Maximum Annual Addition (by employer and employee combined) is 100% of eligible compensation up to $40,000

Section 401(a) - Maximum Compensation that may be considered is $200,000 for 2002 (indexed)

Section 402(g) - Elective Deferral Limit (employee only) is $11,000 for 2002 (increased by $1,000 for participants 50 and over)

Section 404(a) - Employer Deductibility Limit is 25% of aggregate participant compensation. (Beginning in 2002, "compensation" is defined to include elective deferrals, but the dollar amount of any elective deferrals is not counted against the 25% deductibility limit)

CONTRIBUTION LIMIT CONVERSIONS FOR SELF-EMPLOYED PERSONS

SEP, PROFIT SHARING, MONEY PURCHASE PENSION PLANS, ETC.: Rather than 25% of gross compensation, the limit is 20% of *adjusted* net income from self-employment. (Adjusted net income from self-employment is equal to net income from self employment less one half the self employment tax.)

COMBINATION PROFIT SHARING / MONEY PURCHASE PENSION. The conversion is from 15% profit sharing / 10% money purchase pension to 12% profit sharing / 8% money purchase pension. (However, since the 2001 tax law removed the advantages to using a money purchase pension plan, this combination will probably be seen less and less frequently.)

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[1] Sources: Tax Facts 1 - 2001 Edition (The National Underwriter). 403(b) Answer Book – Fifth Edition (Aspen Publishers). FranklinTempleton Retirement Products Guide (3/1999). AIM Retirement Plans Guide (4/2001). A Guide to Pioneer's Retirement Plans (3/2001). Wealth Advisory Group Advisor's Reference Guide.