Internal Revenue Code Section 72(t)(2)(I)

Annuities; certain proceeds of endowment and life insurance contracts

(t) 10-percent additional tax on early distributions from qualified retirement plans.

(1) Imposition of additional tax.

If any taxpayer receives any amount from a qualified retirement plan (as defined in section 4974(c)), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

(2) Subsection not to apply to certain distributions.

Except as provided in paragraphs (3) and (4) , paragraph (1) shall not apply to any of the following distributions:

(A) In general. Distributions which are-

(i) made on or after the date on which the employee attains age 59½,

(ii) made to a beneficiary (or to the estate of the employee) on or after the death of the employee,

(iii) attributable to the employee's being disabled within the meaning of subsection (m)(7) ,

(iv) part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of such employee and his designated beneficiary,

(v) made to an employee after separation from service after attainment of age 55,

(vi) dividends paid with respect to stock of a corporation which are described in section 404(k) ,

(vii) made on account of a levy under section 6331 on the qualified retirement plan,

(viii) payments under a phased retirement annuity under section 8366a(a)(5) or 8412a(a)(5) of title 5, United States Code, or a composite retirement annuity under section 8366a(a)(1) or 8412a(a)(1) of such title , or

(ix) attributable to withdrawal of net income attributable to a contribution which is distributed pursuant to section 408(d)(4) .

For purposes of clause (iv) , periodic payments shall not fail to be treated as substantially equal merely because they are amounts received as an annuity, and such periodic payments shall be deemed to be substantially equal if they are payable over a period described in clause (iv) and satisfy the requirements applicable to annuity payments under section 401(a)(9) .

(B) Medical expenses. Distributions made to the employee (other than distributions described in subparagraph (A) , (C) , or (D)) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 to the employee for amounts paid during the taxable year for medical care (determined without regard to whether the employee itemizes deductions for such taxable year).

(C) Payments to alternate payees pursuant to qualified domestic relations orders. Any distribution to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)(1)).

(D) Distributions to unemployed individuals for health insurance premiums.

(i) In general. Distributions from an individual retirement plan to an individual after separation from employment-

(I) if such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation,

(II) if such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year, and

(III) to the extent such distributions do not exceed the amount paid during the taxable year for insurance described in section 213(d)(1)(D) with respect to the individual and the individual's spouse and dependents (as defined in section 152 , determined without regard to subsections (b)(1) , (b)(2) , and (d)(1)(B) thereof).

(ii) Distributions after reemployment. Clause (i) shall not apply to any distribution made after the individual has been employed for at least 60 days after the separation from employment to which clause (i) applies.

(iii) Self-employed individuals. To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i)(I) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.

(E) Distributions from individual retirement plans for higher education expenses. Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year. Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A) , (C) , or (D) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B) .

(F) Distributions from certain plans for first home purchases. Distributions to an individual from an individual retirement plan which are qualified first-time homebuyer distributions (as defined in paragraph (8)). Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A) , (C) , (D) , or (E) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B) .

(G) Distributions from retirement plans to individuals called to active duty.

(i) In general. Any qualified reservist distribution.

(ii) Amount distributed may be repaid. Any individual who receives a qualified reservist distribution may, at any time during the 2-year period beginning on the day after the end of the active duty period, make one or more contributions to an individual retirement plan of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding sentence. No deduction shall be allowed for any contribution pursuant to this clause.

(iii) Qualified reservist distribution. For purposes of this subparagraph, the term "qualified reservist distribution" means any distribution to an individual if-

(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii) ,

(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)) ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

(III) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

(iv) Application of subparagraph. This subparagraph applies to individuals ordered or called to active duty after September 11, 2001. In no event shall the 2-year period referred to in clause (ii) end on or before

the date which is 2 years after the date of the enactment of this subparagraph.

(H) Distributions from retirement plans in case of birth of child or adoption.

(i) In general. Any qualified birth or adoption distribution.

(ii) Limitation. The aggregate amount which may be treated as qualified birth or adoption distributions by any individual with respect to any birth or adoption shall not exceed $5,000.

(iii) Qualified birth or adoption distribution. For purposes of this subparagraph-

(I) In general. The term "qualified birth or adoption distribution" means any distribution from an applicable eligible retirement plan to an individual if made during the 1-year period beginning on the date on which a child of the individual is born or on which the legal adoption by the individual of an eligible adoptee is finalized.

(II) Eligible adoptee. The term "eligible adoptee" means any individual (other than a child of the taxpayer's spouse) who has not attained age 18 or is physically or mentally incapable of self-support.

(iv) Treatment of plan distributions.

(I) In general. If a distribution to an individual would (without regard to clause (ii)) be a qualified birth or adoption distribution, a plan shall not be treated as failing to meet any requirement of this title merely because the plan treats the distribution as a qualified birth or adoption distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $5,000.

(II) Controlled group. For purposes of subclause (I) , the term "controlled group" means any group treated as a single employer under subsection (b) , (c) , (m) , or (o) of section 414 .

(v) Amount distributed may be repaid.

(I) In general. Any individual who receives a qualified birth or adoption distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an applicable eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c) , 403(a)(4) , 403(b)(8) , 408(d)(3) , or 457(e)(16) , as the case may be.

(II) Limitation on contributions to applicable eligible retirement plans other than IRAs. The aggregate amount of contributions made by an individual under subclause (I) to any applicable eligible retirement plan which is not an individual retirement plan shall not exceed the aggregate amount of qualified birth or adoption distributions which are made from such plan to such individual. Subclause (I) shall not apply to contributions to any applicable eligible retirement plan which is not an individual retirement plan unless the individual is eligible to make contributions (other than those described in subclause (I)) to such applicable eligible retirement plan.

(III) Treatment of repayments of distribu- tions from applicable eligible retirement plans other than IRAs. If a contribution is made under subclause (I) with respect to a qualified birth or adoption distribution from an applicable eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received such distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the applicable eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(IV) Treatment of repayments for distributions from IRAs. If a contribution is made under subclause (I) with respect to a qualified birth or adoption distribution from an individual retirement plan, then, to the extent of the amount of the contribution, such distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the applicable eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(vi) Definition and special rules. For purposes of this subparagraph-

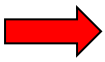
(I) Applicable eligible retirement plan. The term "applicable eligible retirement plan" means an eligible retirement plan (as defined in section 402(c)(8)(B)) other than a defined benefit plan.

(II) Exemption of distributions from trustee to trustee transfer and withholding rules. For purposes of sections 401(a)(31) , 402(f) , and 3405 , a qualified birth or adoption distribution shall not be treated as an eligible rollover distribution.

(III) Taxpayer must include TIN. A distribution shall not be treated as a qualified birth or adoption distribution with respect to any child or eligible adoptee unless the taxpayer includes the name, age, and TIN of such child or eligible adoptee on the taxpayer's return of tax for the taxable year.

(IV) Distributions treated as meeting plan distribution requirements. Any qualified birth or adoption distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i) , 403(b)(7)(A)(i) , 403(b)(11) , and 457(d)(1)(A) .

Note: Section 72(t)(2)(I), below, is effective for distributions made after December 31, 2023.



(I) Distributions for certain emergency expenses.

(i) In general. Any emergency personal expense distribution.

(ii) Annual limitation. Not more than 1 distribution per calendar year may be treated as an emergency personal expense distribution by any individual.

(iii) Dollar limitation. The amount which may be treated as an emergency personal expense distribution by any individual in any calendar year shall not exceed the lesser of $1,000 or an amount equal to the excess of-

(I) the individual's total nonforfeitable accrued benefit under the plan (the individual's total interest in the plan in the case of an individual retirement plan), determined as of the date of each such distribution, over

(II) $1,000.

(iv) Emergency personal expense distribution. For purposes of this subparagraph, the term "emergency personal expense distribution" means any distribution from an applicable eligible retirement plan (as defined in subparagraph (H)(vi)(I)) to an individual for purposes of meeting unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses. The administrator of an applicable eligible retirement plan may rely on an employee's written certification that the employee satisfies the conditions of the preceding sentence in determining whether any distribution is an emergency personal expense distribution. The Secretary may provide by regulations for exceptions to the rule of the preceding sentence in cases where the plan administrator has actual knowledge to the contrary of the employee's certification, and for procedures for addressing cases of em11 ployee misrepresentation.

(v) Treatment of plan distributions. If a distribution to an individual would (without regard to clause (ii) or (iii)) be an emergency personal expense distribution, a plan shall not be treated as failing to meet any requirement of this title merely because the plan treats the distribution as an emergency personal expense distribution, unless the number or the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer, determined as provided in subparagraph (H)(iv)(II)) to such individual exceeds the limitation determined under clause (ii) or (iii).

(vi) Amount distributed may be repaid. Rules similar to the rules of subparagraph (H)(v) shall apply with respect to an individual who receives a distribution to which clause (i) applies.

(vii) Limitation on subsequent distributions. If a distribution is treated as an emergency personal expense distribution in any calendar year with respect to a plan of the employee, no amount may be treated as such a distribution during the immediately following 3 calendar years with respect to such plan unless-

(I) such previous distribution is fully repaid to such plan pursuant to clause (vi), or

(II) the aggregate of the elective deferrals and employee contributions to the plan (the total amounts contributed to the plan in the case of an individual retirement plan) subsequent to such previous distribution is at least equal to the amount of such previous distribution which has not been so repaid.

(viii) Special rules. Rules similar to the rules of subclauses (II) and (IV) of subparagraph (H)(vi) shall apply to any emergency personal expense distribution.

Note: Section 72(t)(2)(J), below, is effective for plan years beginning after December 31, 2023.

(J) Distributions from pension-linked emergency savings account. Distributions from a pension-linked emergency savings account pursuant to section 402A(e) .

Note: Section 72(t)(2)(K), below, is effective for distributions made after December 31, 2023.

(K) Distribution from retirement plan in case of domestic abuse.

(i) In general. Any eligible distribution to a domestic abuse victim.

(ii) Limitation. The aggregate amount which may be treated as an eligible distribution to a domestic abuse victim by any individual shall not exceed an amount equal to the lesser of-

(I) $10,000, or

(II) 50 percent of the present value of the nonforfeitable accrued benefit of the employee under the plan.

(iii) Eligible distribution to a domestic abuse victim. For purposes of this subparagraph-

(I) In general. A distribution shall be treated as an eligible distribution to a domestic abuse victim if such distribution is from an applicable eligible retirement plan and is made to an individual during the 1-year period beginning on any date on which the individual is a victim of domestic abuse by a spouse or domestic partner.

(II) Domestic abuse. The term "domestic abuse" means physical, psychological, sexual, emotional, or economic abuse, including efforts to control, isolate, humiliate, or intimidate the victim, or to undermine the victim's ability to reason independently, including by means of abuse of the victim's child or another family member living in the household.

(iv) Treatment of plan distributions. If a distribution to an individual would (without regard to clause (ii)) be an eligible distribution to a domestic abuse victim, a plan shall not be treated as failing to meet any requirement of this title merely because the plan treats the distribution as an eligible distribution to a domestic abuse victim, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer, determined as provided in subparagraph (H)(iv)(II)) to such individual exceeds the limitation under clause (ii).

(v) Amount distributed may be repaid. Rules similar to the rules of subparagraph (H)(v) shall apply with respect to an individual who receives a distribution to which clause (i) applies.

(vi) Definition and special rules. For purposes of this subparagraph:

(I) Applicable eligible retirement plan. The term "applicable eligible retirement plan" means an eligible retirement plan (as defined in section 402(c)(8)(B)) other than a defined benefit plan or a plan to which sections 401(a)(11) and 417 apply.

(II) Exemption of distributions from trustee to trustee transfer and withholding rules. For purposes of sections 401(a)(31), 402(f), and 3405, an eligible distribution to a domestic abuse victim shall not be treated as an eligible rollover distribution.

(III) Distributions treated as meeting plan distribution requirements; self-certification. Any distribution which the employee or participant certifies as being an eligible distribution to a domestic abuse victim shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(b)(11), and 457(d)(1)(A).

(vii) Inflation adjustment. In the case of a taxable year beginning in a calendar year after 2024, the $10,000 amount in clause (ii)(I) shall be increased by an amount equal to-

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "calendar year 2023" for "calendar year 2016" in subparagraph (A)(ii) thereof.

If any amount after adjustment under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

(L) Terminal illness.

(i) In general. Distributions which are made to the employee who is a terminally ill individual on or after the date on which such employee has been certified by a physician as having a terminal illness.

(ii) Definition. For purposes of this subparagraph, the term "terminally ill individual" has the same meaning given such term under section 101(g)(4)(A), except that "84 months" shall be substituted for "24 months".

(iii) Documentation. For purposes of this subparagraph, an employee shall not be considered to be a terminally ill individual unless such employee furnishes sufficient evidence to the plan administrator in such form and manner as the Secretary may require.

(iv) Amount distributed may be repaid. Rules similar to the rules of subparagraph (H)(v) shall apply with respect to an individual who receives a distribution to which clause (i) applies.

(M) Distributions from retirement plans in connection with federally declared disasters. Any qualified disaster recovery distribution.

Note: Section 72(t)(2)(N), below, is effective for distributions made after the date which is 3 years after December 29, 2022.

(N) Qualified long-term care distributions.

(i) In general. Any qualified long-term care distribution to which section 401(a)(39) applies.

(ii) Exception. If, with respect to the plan, the individual covered by the long-term care coverage to which such dis11 tribution relates is the spouse of the employee, clause (i) shall apply only if the employee and the employee's spouse file a joint return.

(iii) Exemption of distributions from trustee to trustee transfer and withholding rules. For purposes of sections 401(a)(31), 402(f), and 3405, any qualified long-term care distribution described in clause (i) shall not be treated as an eligible rollover distribution.

(3) Limitations.

(A) Certain exceptions not to apply to individual retirement plans. Subparagraphs (A)(v) and (C) of paragraph (2) shall not apply to distributions from an individual retirement plan.

(B) Periodic payments under qualified plans must begin after separation. Paragraph (2)(A)(iv) shall not apply to any amount paid from a trust described in

section 401(a) which is exempt from tax under section 501(a) or from a contract described in section 72(e)(5)(D)(ii) unless the series of payments begins after the employee separates from service.

(4) Change in substantially equal payments.

(A) In general. If-

(i) paragraph (1) does not apply to a distribution by reason of paragraph (2)(A)(iv) , and

(ii) the series of payments under such paragraph are subsequently modified (other than by reason of death or disability or a distribution to which paragraph (10) applies)-

(I) before the close of the 5-year period beginning with the date of the first payment and after the employee attains age 59½, or

(II) before the employee attains age 59½,

the taxpayer's tax for the 1st taxable year in which such modification occurs shall be increased by an amount, determined under regulations, equal to the tax which (but for paragraph (2)(A)(iv)) would have been imposed, plus interest for the deferral period.

(B) Deferral period. For purposes of this paragraph , the term "deferral period" means the period beginning with the taxable year in which (without regard to paragraph (2)(A)(iv)) the distribution would have been includible in gross income and ending with the taxable year in which the modification described in subparagraph (A) occurs.

Note: Section 72(t)(4)(C), below, is effective for transfers, rollovers, and exchanges occurring after December 31, 2023.

(C) Rollovers to subsequent plan. If-

(i) payments described in paragraph (2)(A)(iv) are being made from a qualified retirement plan,

(ii) a transfer or a rollover from such qualified retirement plan of all or a portion of the taxpayer's benefit under the plan is made to another qualified retirement plan, and

(iii) distributions from the transferor and transferee plans would in combination continue to satisfy the requirements of paragraph (2)(A)(iv) if they had been made only from the transferor plan, such transfer or rollover shall not be treated as a modification under subparagraph (A)(ii), and compliance with paragraph (2)(A)(iv) shall be determined on the basis of the combined distributions described in clause (iii).

(5) Employee.

For purposes of this subsection , the term "employee" includes any participant, and in the case of an individual retirement plan, the individual for whose benefit such plan was established.

Note: Section 72(t)(6), below, is effective for plan years beginning before January 1, 2024. See below for Section 72(t)(6), effective for plan years beginning after December 31, 2023.

(6) Special rules for simple retirement accounts.
In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2) , paragraph (1) shall be applied by substituting "25 percent" for "10 percent".

Note: Section 72(t)(6), below, is effective for plan years beginning after December 31, 2023. See above for Section 72(t)(6), effective for plan years beginning before January 1, 2024.

(6) Special rules for simple retirement accounts.

(A) In general. In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2) , paragraph (1) shall be applied by substituting "25 percent" for "10 percent".

(B) Waiver in case of plan conversion to 401(k) or 403(b). In the case of an employee of an employer which terminates the qualified salary reduction arrangement of the employer under section 408(p) and establishes a qualified cash or deferred arrangement described in section 401(k) or purchases annuity contracts described in section 403(b), subparagraph (A) shall not apply to any amount which is paid in a rollover contribution described in section 408(d)(3) into a qualified trust under section 401(k) (but only if such contribution is subsequently subject to the rules of section 401(k)(2)(B)) or an annuity contract described in section 403(b) (but only if such contribution is subsequently subject to the rules of section 403(b)(12)) for the benefit of the employee.

(7) Qualified higher education expenses.
For purposes of paragraph (2)(E) -

(A) In general. The term "qualified higher education expenses" means qualified higher education expenses (as defined in section 529(e)(3)) for education furnished to-

(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) any child (as defined in section 152(f)(1)) or grandchild of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 529(e)(5)).

(B) Coordination with other benefits. The amount of qualified higher education expenses for any taxable year shall be reduced as provided in section 25A(g)(2) .

(8) Qualified first-time homebuyer distributions.
For purposes of paragraph (2)(F) -

(A) In general. The term "qualified first-time homebuyer distribution" means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 120th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

(B) Lifetime dollar limitation. The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of-

(i) $10,000, over

(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

(C) Qualified acquisition costs. For purposes of this paragraph , the term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

(D) First-time homebuyer; other definitions. For purposes of this paragraph -

(i) First-time homebuyer. The term "first-time homebuyer" means any individual if-

(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

(II) subsection (h) or (k) of section 1034 (as in effect on the day before the date of the enactment of this paragraph) did not suspend the running of any period of time specified in section 1034 (as so in effect) with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A) .

(ii) Principal residence. The term "principal residence" has the same meaning as when used in section 121 .

(iii) Date of acquisition. The term "date of acquisition" means the date-

(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(E) Special rule where delay in acquisition. If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting "120th day" for "60th day" in such section), except that-

(i) section 408(d)(3)(B) shall not be applied to such contribution, and

(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(B) applies to any other amount.

(F) Recontributions.

(i) General rule.

(I) In general. Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribu17 tion could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

(II) Treatment of repayments. Rules similar to the rules of clauses (ii) and (iii) of paragraph (11)(C) shall apply for purposes of this subsection.

(ii) Qualified distribution. For purposes of this subparagraph, the term "qualified distribution" means any distribution-

(I) which is a qualified first-time homebuyer distribution,

(II) which was to be used to purchase or construct a principal residence in a qualified disaster area, but which was not so used on account of the qualified disaster with respect to such area, and

(III) which was received during the period beginning on the date which is 180 days before the first day of the incident period of such qualified disaster and ending on the date which is 30 days after the last day of such incident period.

(iii) Applicable period. For purposes of this subparagraph, the term "applicable period" means, in the case of a principal residence in a qualified disaster area with respect to any qualified disaster, the period beginning on the first day of the incident period of such qualified disaster and ending on the date which is 180 days after the applicable date with respect to such disaster.

(9) Special rule for rollovers to section 457 plans.
For purposes of this subsection , a distribution from an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A) shall be treated as a distribution from a qualified retirement plan described in 4974(c)(1) to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in section 4974(c)).

(10) Distributions to qualified public safety employees and private sector firefighters.

(A) In general. In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414(d)) or a distribution from a plan described in clause (iii) , (iv) , or (vi) of section 402(c)(8)(B) to an employee who provides firefighting services, paragraph (2)(A)(v) shall be applied by substituting " age 50 or 25 years of service under the plan, whichever is earlier" for "age 55".

(B) Qualified public safety employee. For purposes of this paragraph, the term "qualified public safety employee" means-

(i) any employee of a State or political subdivision of a State who provides police protection, firefighting services, emergency medical services, or services as a corrections officer or as a forensic security employee providing for the care, custody, and control of forensic patients for any area within the jurisdiction of such State or political subdivision, or

(ii) any Federal law enforcement officer described in section 8331(20) or 8401(17) of title 5, United States Code, any Federal customs and border protection officer described in section 8331(31) or 8401(36) of such title, any Federal firefighter described in section 8331(21) or 8401(14) of such title, any air traffic controller described in 8331(30) or 8401(35) of such title, any nuclear materials courier described in section 8331(27) or 8401(33) of such title, any member of the United States Capitol Police, any member of the Supreme Court Police, or any diplomatic security special agent of the Department of State.

(11) Qualified disaster recovery distribution.
For purposes of paragraph (2)(M)-

(A) In general. Except as provided in subparagraph (B), the term "qualified disaster recovery distribution" means any distribution made-

(i) on or after the first day of the incident period of a qualified disaster and before the date that is 180 days after the applicable date with respect to such disaster, and

(ii) to an individual whose principal place of abode at any time during the incident period of such qualified disaster is located in the qualified disaster area with respect to such qualified disaster and who has sustained an economic loss by reason of such qualified disaster.

(B) Aggregate dollar limitation.

(i) In general. For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified disaster recovery distributions with respect to any qualified disaster in all taxable years shall not exceed $22,000.

(ii) Treatment of plan distributions. If a distribution to an individual would (without regard to clause (i)) be a qualified disaster recovery distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified disaster recovery distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $22,000 with respect to the same qualified disaster.

(iii) Controlled group. For purposes of clause (ii), the term "controlled group" means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

(C) Amount distributed may be repaid.

(i) In general. Any individual who receives a qualified disaster recovery distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

(ii) Treatment of repayments of distributions from eligible retirement plans other than IRAs. For purposes of this title, if a contribution is made pursuant to clause (i) with respect to a qualified disaster recovery distribution from a plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified disaster recovery distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(iii) Treatment of repayments for distributions from IRAs. For purposes of this title, if a contribution is made pursuant to clause (i) with respect to a qualified disaster recovery distribution from an individual retirement plan, then, to the extent of the amount of the contribution, the qualified disaster recovery distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(D) Income inclusion spread over 3-year period.

(i) In general. In the case of any qualified disaster recovery distribution, unless the taxpayer elects not to have this subparagraph apply for any

taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

(ii) Special rule. For purposes of clause (i), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.

(E) Qualified disaster. For purposes of this paragraph and paragraph (8), the term "qualified disaster" means any disaster with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act after December 27, 2020.

(F) Other definitions. For purposes of this paragraph and paragraph (8)-

(i) Qualified disaster area.

(I) In general. The term "qualified disaster area" means, with respect to any qualified disaster, the area with respect to which the major disaster was declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(II) Exceptions. Such term shall not include any area which is a qualified disaster area solely by reason of section 301 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020.

(ii) Incident period. The term "incident period" means, with respect to any qualified disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred.

(iii) Applicable date. The term "applicable date" means the latest of-

(I) the date of the enactment of this paragraph,

(II) the first day of the incident period with respect to the qualified disaster, or

(III) the date of the disaster declaration with respect to the qualified disaster.

(iv) Eligible retirement plan. The term "eligible retirement plan" shall have the meaning given such term by section 402(c)(8)(B).

(G) Special rules.

(i) Exemption of distributions from trustee to trustee transfer and withholding rules. For purposes of sections 401(a)(31), 402(f), and 3405, qualified disaster recovery distributions shall not be treated as eligible rollover distributions.

(ii) Qualified disaster recovery distributions treated as meeting plan distribution requirements.
For purposes of this title-

(I) a qualified disaster recovery distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(b)(11), and 457(d)(1)(A), and

(II) in the case of a money purchase pension plan, a qualified disaster recovery distribution which is an in-service withdrawal shall be treated as meeting the requirements of section 401(a) applicable to distributions.

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