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## **Reg. 1.408-8(c)(2)**

### Distribution requirements for individual retirement plans

#### (a) Applicability of section 401(a)(9).

(1) In general. An IRA is subject to the required minimum distribution requirements of section 401(a)(9). In order to satisfy section 401(a)(9), the rules of §§1.401(a)(9)-1 through 1.401(a)(9)-9 must be applied, except as otherwise provided in this section. For example, if the owner of an individual retirement account dies before the IRA owner's required beginning date, whether the 10-year rule or the life expectancy rule applies to distributions after the IRA owner's death is determined in accordance with §1.401(a)(9)-3(c), and the rules of § 1.401(a)(9)-4 apply for purposes of determining an IRA owner's designated beneficiary. The amount of the minimum distribution required for each calendar year from an individual retirement account is determined in accordance with §1.401(a)(9)-5 and the minimum distribution required for each calendar year from an individual retirement annuity described in section 408(b) is determined in accordance with §1.401(a)(9)-6 (including §1.401(a)(9)-6(d)(2)).

(2) Definition of IRA and IRA owner. For purposes of this section, an IRA is an individual retirement account or annuity described in section 408(a) or (b), and 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.

(3) Substitution of specific terms. For purposes of applying the required minimum distribution rules of §§1.401(a)(9)-1 through 1.401(a)(9)-9, the IRA trustee, custodian, or issuer is treated as the plan administrator, and the IRA owner is substituted for the employee.

(4) Treatment of SEPs and SIMPLE IRA Plans. IRAs that receive employer contributions under a SEP arrangement (within the meaning of section 408(k)) or a SIMPLE IRA plan (within the meaning of 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.

#### (b) Different rules for IRAs and qualified plans.

##### (1) Determination of required beginning date.

(i) In general. An IRA owner's required beginning date is determined using the rules for employees who are 5-percent owners under §1.401(a)(9)-2(b)(3). Thus, the IRA owner's required beginning date is April 1 of the calendar year following the calendar year in which the individual attains the applicable age.

(ii) Special rules for Roth IRAs. No minimum distributions are required to be made from a Roth IRA while the owner is alive. After the Roth IRA owner dies,

the required minimum distribution rules apply to the Roth IRA as though the Roth IRA owner died before his or her required beginning date. In accordance with section 401(a)(9)(B)(iv)(II), if the sole beneficiary is the Roth IRA owner's surviving spouse, then the surviving spouse may delay distributions until the Roth IRA owner would have attained the applicable age.

(2) Account balance determination. For purposes of determining the required minimum distribution from an IRA for any calendar year, the account balance of the IRA as of December 31 of the calendar year preceding the calendar year for which distributions are required to be made is substituted for the account balance of the employee under § 1.401(a)(9)-5(b). Except as provided in paragraph (d) of this section, no adjustments are made for contributions or distributions after that date.

(3) Determination of portion of distribution that is a required minimum distribution. The portion of a distribution from an IRA that is a required minimum distribution and thus not eligible for rollover is determined in the same manner as provided in §1.402(c)-2(f) and (j) for a distribution from a qualified plan. For example, if a minimum distribution to an IRA owner is required under section 401(a)(9)(A)(ii) for a calendar year, any amount distributed during a calendar year from an IRA of that IRA owner 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) from all of that IRA owner's IRAs has not been satisfied (either by a distribution from the IRA or, as permitted under paragraph (e) of this section, from another IRA).

(4) Documentation requirements.

(i) Disabled or chronically ill beneficiaries. In determining whether an IRA owner's designated beneficiary is disabled or chronically ill for purposes of § 1.401(a)(9)-4(e), the required documentation described in § 1.401(a)(9)-4(e)(7) need not be provided to the IRA trustee, custodian, or issuer.

(ii) Trust documentation. In determining whether the requirements of §1.401(a)(9)-4(f)(2) are met (to determine whether a trust is a see-through trust), the trust documentation described in § 1.401(a)(9)-4(h) need not be provided to the IRA trustee, custodian, or issuer.

(c) Surviving spouse treating IRA as own.

(1) Election generally permitted.

(i) In general. The surviving spouse of an individual may elect, in the manner described in paragraph (c)(2) of this section, to treat the surviving spouse's entire interest as a beneficiary in the individual's IRA (or the remaining part of that interest if distributions have begun) as the surviving spouse's own IRA.

(ii) Eligibility to make election. In order to make the election described in this paragraph (c)(1), the surviving 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 surviving spouse is the sole beneficiary of the trust.

(iii) Timing of election. If §1.402(c)-2(j)(4) (the special rule for catch-up distributions after a surviving spouse reaches the applicable age) would apply to the IRA owner's surviving spouse had a distribution been made directly to the surviving spouse in a calendar year, then, except as provided in paragraph (c)(1)(iv) of this section, the election described in this paragraph (c)(1) may not be made in that calendar year.

(iv) Exception for late elections. In the case of a surviving spouse who, pursuant to the timing rule in paragraph (c)(1)(iii) of this section, may not make the election described in paragraph (c)(1)(i) of this section in a calendar year, the spouse may nevertheless make the election in that calendar year provided that the election does not apply to amounts in the IRA that would be treated as required minimum distributions under §1.402(c)-2(j)(4)(ii) had they been distributed in that calendar year. Thus, the election can be made in a calendar year only after the amounts treated as required minimum distributions under §1.402(c)-2(j)(4)(ii) for that calendar year have been distributed from the IRA.



(2) Election procedures. The election described in paragraph (c)(1) of this section 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--

(i) Any amount in the IRA that would be required to be distributed to the surviving spouse as beneficiary under section 401(a)(9)(B) for a calendar year following the calendar year of the IRA owner's death is not distributed within the time period required under section 401(a)(9)(B); or

(ii) A contribution (other than a rollover of a distribution from an eligible retirement plan of the decedent) is made to the IRA.

(3) Effect of election. Following an election described in paragraph (c)(1) of this section, the surviving spouse is considered the IRA owner for whose benefit the trust is maintained for all purposes under the Internal Revenue Code (including section 72(t)). Thus, for example, 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 that includes the date of 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 §1.401(a)(9)-5(c), to the extent the distribution was not made to the IRA owner before death.

(d) Treatment of rollovers and transfers.

(1) Treatment of rollovers.

(i) In general. If a distribution is rolled over to an IRA, then the rules in §1.401(a)(9)-7 apply for purposes of determining the account balance and the required minimum distribution for that 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 IRA is adjusted only if the amount rolled over is not received in the calendar year in which the amount was distributed. If the amount rolled over is received in the calendar year following the calendar year in which the amount was distributed, then, for purposes of determining the required minimum distribution for that following calendar year, the account balance of the IRA as of December 31 of the calendar year in which the distribution was made must be adjusted by the amount received in accordance with §1.401(a)(9)-7(b).

(ii) Spousal rollovers. A surviving spouse is permitted to roll over a distribution to an IRA as the beneficiary of the deceased employee or IRA owner, and the rules of paragraph (d)(1)(i) of this section apply to that IRA. A surviving spouse may also elect to treat that IRA as the spouse's own IRA in accordance with paragraph (c) of this section.

(2) Special rules for death before required beginning date.

(i) Carryover of election under qualified plan or IRA. If an employee or IRA owner dies before the required beginning date and the surviving spouse rolls over a distribution of the employee's or IRA owner's interest to an IRA in the spouse's capacity as a beneficiary of the deceased employee or IRA owner, then, except as provided in paragraph (d)(2)(ii) of this section, the method for determining required minimum distributions that applied to that surviving spouse under the distributing plan or IRA (such as when a beneficiary makes an election described in §1.401(a)(9)-3(c)(5)(iii)) also applies to the receiving IRA. Thus, for example, if an employee who died before the required beginning date designated the employee's surviving spouse as a beneficiary of the employee's interest in the plan and the plan provides that the surviving spouse is subject to the 10-year rule described in §1.401(a)(9)-3(c)(4), then the 10-year rule also applies to any IRA in the name of the decedent that receives a rollover of the employee's interest.

(ii) Change from 5-year rule or 10-year rule to life expectancy payments. If the 5-year rule or 10-year rule described in § 1.401(a)(9)-3(b)(2), (c)(2), or (c)(3), respectively, applies to a distributing plan or IRA and a distribution is made to the employee's surviving spouse before the deadline described in §1.401(a)(9)-3(b)(4)(iii) or (c)(5)(iii) that would have applied had the distributing plan or IRA permitted the surviving spouse to make an election between the 5-year rule or 10-year rule and the life expectancy rule (or, in the case of a defined benefit plan, the annuity payment rule), then the surviving spouse may elect to have the life expectancy rule described in §1.401(a)(9)-3(c)(4) or the annuity payment rule described in §1.401(a)(9)-3(b)(3) apply to any IRA to which any portion of that distribution is rolled over. However, see §1.402(c)-2(j)(4)(ii) to determine the portion of that distribution that is treated as a required minimum distribution in the calendar year of the distribution and thus is not eligible for rollover.

(iii) Spousal rollover to spouse's own IRA. If an employee or IRA owner dies before the required beginning date and the surviving spouse rolls over a distribution described in paragraph (d)(2)(i) of this section from the surviving spouse's IRA in the capacity as the beneficiary of the decedent to the surviving

spouse's own IRA, then, in determining the amount that is treated as a required minimum distribution under section 401(a)(9) and thus is not eligible for rollover, the rules of §1.402(c)-2(j)(4) are applied as if the distribution was made directly from the decedent's interest in the plan or IRA to the surviving spouse's own IRA.

(3)Applicability of rollover rules to non-spouse beneficiary. The rules of paragraphs (d)(1)(i), (2)(i) and (ii) of this section apply to a non-spouse beneficiary who makes an election to have a distribution made in the form of a direct trustee-to-trustee transfer as described in section 402(c)(11) in the same manner as a rollover of a distribution made by a surviving spouse.

(4)Treatment of transfers. 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. After the transfer, the employee's account balance and the required minimum distribution under the transferee IRA are determined in the same manner that an account balance and required minimum distribution are determined under an IRA receiving a rollover contribution under paragraph (d)(1) of this section.

(e)Application of section 401(a)(9) for multiple IRAs.

(1)Distribution from one IRA to satisfy total required minimum distribution.

(i) In general. The required minimum distribution from one IRA is permitted to be distributed from another IRA in order to satisfy section 401(a)(9), subject to the limitations of paragraphs (e)(2) and (3) of this section. Except as provided in paragraph (e)(1)(ii) of this section, the required minimum distribution must be calculated separately for each IRA and the sum of those separately calculated required minimum distributions may be distributed from any one or more of the IRAs under the rules set forth in this paragraph (e).

(ii) Permitted aggregation of annuity contract and account balance. Subject to the limitations of paragraphs (e)(2) and (3) of this section, an individual who holds an IRA that is an annuity contract described in section 408(b) may elect to aggregate that IRA with one or more IRAs with account balances that the individual holds and apply the optional aggregation rule of §1.401(a)(9)-5(a)(5)(iv) with respect to the annuity contract and the account balances under those IRAs as if the account balances were the remaining account balances following the purchase of the annuity contract with a portion of those account balances.

(2)IRAs eligible for aggregate treatment.

(i) IRA owners. Generally, only amounts in IRAs that an individual holds as the IRA owner are aggregated for purposes of paragraph (e)(1) of this section. Except in the case of a surviving spouse electing to treat a decedent's IRA as the spouse's own IRA, an IRA that a beneficiary acquires as a result of the death of an individual is not treated as an IRA of the beneficiary but rather as an IRA of the decedent for purposes of this paragraph (e). Thus, for example, for purposes of satisfying the minimum distribution requirements with respect to one IRA by making distributions from another IRA, IRAs for which the individual is the IRA owner are not aggregated with IRAs for which the individual is a beneficiary.

(ii) IRA beneficiaries. IRAs that a person holds as a beneficiary of a decedent are aggregated for purposes of paragraph (e)(1) of this section, but those amounts are not aggregated with IRAs that the person holds as the owner or as the beneficiary of a different decedent.

(3) Non-Roth IRAs are treated separately from section 403(b) contracts and Roth IRAs. Distributions from an IRA that is not a Roth IRA may not be used to satisfy the required minimum distribution requirements with respect to a Roth IRA, or a section 403(b) contract (as defined in §1.403(b)-2(b)(16)(i)). Similarly, distributions from a Roth IRA do not satisfy the required minimum distribution requirements with respect to a section 403(b) contract or an IRA that is not a Roth IRA. In addition, distributions from a section 403(b) contract do not satisfy the required minimum distribution requirements with respect to an IRA.

(4) Allocation rule for partial distributions in year of death.

(i) Distribution required in year of IRA owner's death. This paragraph (e)(4) provides a special rule that applies if an IRA owner has multiple IRAs (which do not all have identical beneficiary designations) that are aggregated in accordance with paragraph (e)(1) of this section and that IRA owner dies before taking the total required minimum distribution for the calendar year of the IRA owner's death (that is, there is a shortfall). In that case, each of the owner's IRAs is subject to a requirement to distribute a proportionate share of the shortfall for the calendar year to a beneficiary of that IRA, with the proportions based on the account balances determined under paragraph (b)(2) of this section. This allocation of the shortfall to a particular IRA is made without regard to whether some of the required minimum distribution for the calendar year was already made to the IRA owner from that IRA.

(ii) Distribution requirement in the year of beneficiary's death. Rules similar to the rules of paragraph (e)(4)(i) of this section apply in the case of a beneficiary of multiple IRAs that are aggregated under paragraph (e)(1) of this section if a required minimum distribution is due for that beneficiary in the calendar year of the beneficiary's death, to the extent that the amount was not distributed to the beneficiary.

(iii)

Example. Assume IRA owner X died on December 31, 2024, at the age of 75. At the time of X's death, X owned two separate IRAs, IRA Y and IRA Z, neither of which is a Roth IRA. The balance of IRA Y as of December 31, 2023, was \$100,000 and the balance of IRA Z as of December 31, 2023, was \$50,000. X died after X's required beginning date and under the rules of paragraph (e)(1) of this section, the total of the 2024 required minimum distributions for IRA Y and IRA Z is \$6,097.56 ( $\$150,000/24.6$ ). X designated A as his beneficiary under IRA Y and B as his beneficiary under IRA Z. Prior to X's death, X had taken a \$3,000 distribution from IRA Z in 2024. Under the rules of paragraph (e)(4)(i) of this section, the remaining portion of the 2024 required minimum distribution (\$3,097.56) is allocated two-thirds to IRA Y and one-third to IRA Z. Thus, in the calendar year of X's death A is required to take a required minimum distribution

of \$2,065.04 from IRA Y and B is required to take a required minimum distribution of \$1,032.52 from IRA Z.

(f)Reporting requirements. 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) of this chapter), as well as the applicable Federal tax forms and accompanying instructions.

(g)Distributions taken into account.

(1)General rule. Except as provided in paragraph (g)(2) of this section, 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. Thus, for example, a qualified charitable distribution made pursuant to section 408(d)(8) is taken into account in determining whether section 401(a)(9) is satisfied.

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

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

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

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

(iv) Amounts that are treated as distributed pursuant to section 408(e);

(v) Amounts that are treated as distributed as a result of the purchase of a collectible pursuant to section 408(m);

(vi) Corrective distributions of excess deferrals as described in §1.402(g)-1(e), together with the income allocable to these corrective distributions; and

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

(h)Qualifying longevity annuity contracts.

(1)General rule. The special rule in §1.401(a)(9)-5(b)(4) for a QLAC, defined in §1.401(a)(9)-6(q), applies to an IRA, subject to the modifications set forth in this paragraph (h).

(2)Reliance on representations. For purposes of the limitation described in §1.401(a)(9)-6(q)(2)(ii), unless the trustee, custodian, or issuer of an IRA has actual knowledge to the contrary, the trustee, custodian, or issuer may rely on the IRA owner's representation

(made in writing or other form as may be prescribed by the Commissioner) of the amount of the premiums described in § 1.401(a)(9)-6(q)(2)(ii) that are not paid under the IRA.

(3) Permitted delay in setting beneficiary designation. In the case of a contract that is rolled over from a plan to an IRA before the required beginning date under the plan, the contract will not violate the rule in § 1.401(a)(9)-6(q)(3)(iii)(F) that a non-spouse beneficiary must be irrevocably selected on or before the later of the date of purchase and the required beginning date under the IRA, provided that the contract requires a beneficiary to be irrevocably selected by the end of the year following the year of the rollover.

(4) Roth IRAs. The rule in § 1.401(a)(9)-5(b)(4) does not apply to a Roth IRA. Accordingly, a contract that is purchased under a Roth IRA is not treated as a contract that is intended to be a QLAC for purposes of applying the dollar limitation rule in § 1.401(a)(9)-6(q)(2)(ii). If a QLAC is purchased or held under a plan, annuity, account, or traditional IRA, and that contract is later rolled over or converted to a Roth IRA, the contract is not treated as a contract that is intended to be a QLAC after the date of the rollover or conversion. Thus, premiums paid with respect to the contract will not be taken into account under § 1.401(a)(9)-6(q)(2)(ii) after the date of the rollover or conversion.

(i) [Reserved]

(j) Applicability date. This section applies for purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2025. For earlier calendar years, the rules of 26 CFR 1.408-8 (as it appeared in the April 1, 2023, edition of 26 CFR part 1) apply.