

The New IRS Minimum Distribution Regulations A Roadmap for the Weary

by
Anne E. Moran

Summary

The Internal Revenue Code contains minimum distribution rules under section 401(a)(9) designed to prevent accumulations of a participant's retirement benefits in qualified plans for an extended period beyond retirement. These rules are similar to the rules requiring distributions from IRAs at age 70½. Although the concept of requiring a minimum distribution is relatively simple, these rules have created challenges for qualified plan administrators because they change so often. The IRS has issued final regulations under section 401(a)(9) effective in 2003. The Service has provided practitioners with a model plan amendment setting forth these requirements. Both the regulations and the Model Amendment are quite dense and sometimes difficult to comprehend because of their length. This article tries to explain the basics of these rules and how the Model Amendment applies to both defined contribution and defined benefit plans.

Introduction

The minimum distribution rules of section 401(a)(9) of the Code have existed for over thirty years in one form or another. Very generally, they require that participants or beneficiaries take distributions from a qualified retirement plan within a reasonably short period after a participant's retirement or death. The purpose of these rules is to discourage use of a retirement

plan as an estate planning or tax deferral tool. Since most participants cannot afford to live in retirement without their plan distributions, and given the increased participant preference for lump sum distributions, this “forced distribution” rule seems unnecessary in most cases, except, perhaps, for the very wealthy. Nevertheless, the rules apply to all plan participants as a condition of plan qualification. The Code also imposes a 50% excise tax on any required distribution that fails to be distributed.ⁱ

The rules are mechanical. Generally, plans using account balances (e.g., 401(k) and other defined contribution plans) must distribute a prescribed portion of the participant’s account balance each year on or before the “required beginning date” at which distributions must commence. Defined benefit plans must also start payments on or before the “required beginning date.” Such plans must structure annuity payments so that they do not exceed certain periods based on the recipient’s life or life expectancy, and lifetime annuity benefits must be designed to provide the bulk of the benefits to the participant during retirement, rather than to any beneficiary upon death.

The concepts are not complex in and of themselves, but the rules have become much more difficult to apply because Congress and the IRS (often with the best of intentions) keep changing them. Most of these changes require plan amendments, and many have transition rules. For example, in 1996, the “required beginning date”—the date that distributions during a participant’s life are required to begin—changed from age 70½ to the later of age 70½ or retirement. This change, which actually reinstated the law that was in place prior to the Tax Reform Act of 1986, resulted in at least five IRS pronouncements from 1996 to 1998 explaining and clarifying the Service’s position as to how to apply the change.ⁱⁱ

IRS Regulations and Guidance for 2003

The basic minimum distribution rules were set forth in proposed regulations issued in 1987. These regulations consisted of over 75 multiple-part questions and answers. Over the years, the IRS has tried to simplify the rules by substituting new tables to measure the life expectancy and other periods over which distributions must be taken. With these “simplifications” have come additional required plan amendments.

In 2001, the IRS rewrote the 1987 proposed regulations in order to provide additional simplification and to reflect changes in the law that had occurred over fifteen years. These new regulations were initially proposed, but finalized in 2002. Plan sponsors had the option to adopt the proposed regulations in 2002 or wait until 2003. The final regulations are effective January 1, 2003, and cover over 35 pages in the Federal Register. Plan amendments incorporating these new regulations must be adopted by December 31, 2003 for calendar year plans.

The new regulations, like the old ones, require the plan to state the rules and to indicate that the regulations will be followed. The proper amount of detail required by the new regulations from the IRS is unclear. Obviously, a determination letter from the IRS would provide certainty that the plan’s language is appropriate and complete, but given that most plans have just been reviewed for changes in the law from 1994-2001 (the so-called “GUST” amendments), it may be difficult to encourage plan sponsors to seek another IRS review for this purpose. Sensitive to the need for approved plan provisions, the IRS issued a “Model Amendment” that provides language that a plan can adopt to reflect these changes. However, the Model Amendment itself will result in an additional 5-6 pages in a plan document as it recites the general rules with specificity. Since many employers will have little tolerance for reviewing carefully such lengthy technical language, the use of the Model Amendment could result in

adoption of language that is not understood by the plan administrator. This article tries to help plan administrators and their counsel by explaining in very simple terms the general requirements of the minimum distribution rules and the approach taken by the Model Amendment.

Definitions: A Primer

The required minimum distribution rules use a number of terms that need to be understood and whose definition varies depending on the context. Very generally, these terms are: (i) the required beginning date; (ii) the designated beneficiary; and (iii) the distribution calendar year. These terms will be explained generally below and then applied more specifically in the article.

Required Beginning Date. The required beginning date is when payments must start. Very generally, for distributions beginning when the participant is alive, it is the April 1 after a participant attains age 70½ or terminates employment with the employer maintaining the plan, whichever is later. If the participant is a 5% or more owner, the required beginning date is the April 1 of the year after the participant reaches 70½.ⁱⁱⁱ For distributions beginning after the participant dies, the required beginning date is a date generally 5 years after the death of the participant (actually the December 31 containing the 5th anniversary of the participant's death) for a complete distribution, or one year after death for a periodic payment to begin (more precisely, the December 31 of the year containing the first anniversary of the participant's death). This article refers to these two rules as the "5-year rule" and the "1-year rule" respectively.

A special rule applies if the only designated beneficiary is the participant's surviving spouse, or to the extent the participant's interests in his account or accrued benefit can be divided

into separate portions for the surviving spouse (see discussion below). The spouse's survivor benefit must begin on or before the later of the end of the calendar year in which the employee died, or the end of the calendar year in which the employee turned 70½.^{iv}

Plans have some flexibility in choosing the required beginning date, so one must review each plan's own required beginning date when coordinating it with the Model Amendment. For example, until 1997, distributions had to begin on the April 1 prior to age 70 ½ even if a participant was still employed. When that rule changed (to allow deferral to termination of employment, if later), some plan sponsors kept the requirement of distribution at 70½. Others retained it for persons who were close to age 70 ½ at the time, because these individuals may have been counting on a distribution shortly after age 70 ½ even if they were to continue working.

Designated Beneficiary. The existence and life expectancy of the designated beneficiary affects allowable distributions because the allowable distribution after death may be based on the designated beneficiary's status and life expectancy. A designated beneficiary must be an individual and must be identified as the participant's designated beneficiary at the participant's death.^v If there is more than one designated beneficiary, the shortest life expectancy of all designated beneficiaries must be used.^{vi} The Model Amendment does not discuss in detail the effect of more than one designated beneficiary, so does not spell out this "shortest life expectancy" rule. Special rules allow designated beneficiaries to eliminate their status as designated beneficiaries if they either disclaim benefits or receive a complete distribution by the September 30 of the year after the participant's death. This can be a useful tool if one of the designated beneficiaries is old and has a short life expectancy. A short life expectancy increases the annual distribution. If that "old" designated beneficiary takes a full distribution or disclaims

his or her benefit by the required date, he will therefore decrease the required minimum distribution for all other designated beneficiaries. Note, however, that a designated beneficiary can only be subtracted, not added, after a participant's death. The regulations make it clear that the designated beneficiary must be named (either specifically or by operation of nondiscretionary plan terms) when the participant dies.

The section 401(a)(9) rules themselves provide examples as to when certain individuals are designated beneficiaries. For example, a "successor" beneficiary who only receives a benefit equal to the amount payable to the first beneficiary (e.g., if he dies) is generally not a designated beneficiary, but a contingent beneficiary having a separate right to some benefit upon the death of the first beneficiary would be a "designated beneficiary."^{vii} A rule new to the 2003 regulations states that a participant's marital status is determined on January 1 of each year; a spouse's death or divorce during the year does not count for purposes of the calculations described below until the next year.^{viii}

Distribution Calendar Year and Valuation Calendar Year. The distribution calendar year is the year for which a minimum distribution is required. It is relevant when applying these rules to account balance plans or lump sum payments in defined benefit plans. For distributions beginning before a participant dies, the distribution calendar year is the year before the required beginning date. For example, if a participant turns 70½ in 2004, the distribution calendar year is 2004; the required beginning date is April 1, 2005. A distribution must be made for 2004 on or before April 1, 2005. The distribution will be based on the value of the participant's account in the previous year (in this example, on December 31, 2003, the "valuation calendar year"). In the case of a defined contribution plan, if that valuation date is not the last day of the valuation

calendar year, the account will be increased by subsequent contributions and decreased by subsequent forfeitures made with respect to that valuation calendar year.^{ix}

For distributions that begin after a participant dies, the first distribution calendar year is the year that contains the required beginning date. For example, if a participant dies in May, 2004, and has no designated beneficiary, the required beginning date is December 31, 2009, so the distribution calendar year is 2009. If there is a designated non-spouse beneficiary for the participant and periodic payments are to be made, the required beginning date is December 31, 2005, and 2005 is the distribution calendar year.

Applying The Rules To Defined Contribution Plans

The Section 401(a)(9) regulations provide the following rules for defined contribution plans.

Commencing Benefits While A Participant. A participant must begin to receive benefits on or before his required beginning date, and that date depends on what the plan provides. Some plans require distributions to begin on the April 1 after the participant reaches age 70½. Others require that distributions begin on the April 1 after the later of the participant's attaining age 70½ or termination of employment; others give a choice. Of course, as discussed above, 5% or more owners cannot wait until termination; they must begin after they turn 70½.

Although the required beginning date is April 1 of the year after the event, the first distribution calendar year is the year before that April 1, and a required distribution has to be made with respect to amounts in that plan as of the last valuation date before the distribution calendar year, increased by any contributions made to the plan as of that valuation date, and

decreased by any distributions made in the distribution calendar year. Special rules apply to rollover or transfer contributions made to the Plan in the distribution calendar year.^x

In general, the amount of the required distribution depends on the form available under the plan and selected by the participant (if elections are available). An annuity contract can be purchased before the required beginning date if the plan authorizes this, although the annuity payment stream must meet the requirements of IRS regulations. If a single lump sum is the only form, it must be distributed by the required beginning date. If the plan allows payouts over a period of years, the plan administrator must make sure that the payouts for each year are at least a percentage of the account balance set forth in the regulations and discussed below.

The method for determining the required annual lifetime minimum distribution is as follows. The account balance for the distribution calendar year is divided by the amount set forth in the “Uniform Lifetime Table” of the regulations. That amount is based on the participant’s birthday in the distribution calendar year. The only exception to this rule is that if the participant has only one “designated beneficiary” who is his spouse, the denominator is determined using the participant’s and spouse’s attained age as of their birthdays in the distribution calendar year. These denominators and account balances will change each year.

Many of the standard distribution options should satisfy these rules. A traditional period certain annuity of 5 or 15 years, for example, will likely satisfy the minimum distribution rules. This is because the denominator used for most participants (which determines the percentage of the account balance that must be distributed each year) is quite high. For a 70-year old participant, for example, the denominator is 27.4. That denominator decreases with age.

Death After Benefits Begin. Suppose the distributions have begun during a participant’s life and the participant dies. If an annuity contract were purchased and payments had begun

under an irrevocable method, no further change is needed. If distributions are being made under as installment method, each year's required distribution after death is measured by determining the period over which distributions can be made. That period essentially creates a denominator which is divided into the year's account balance, creating a required minimum distribution amount.

The remaining period over which distributions must be made is equal to the longer of the participant's life expectancy in the year of death, or the designated beneficiary's life expectancy as of his birthday in the calendar year immediately following the participant's death. This period is reduced by one for each subsequent year. Life expectancy is determined based on the Single Life Tables set forth in the regulations.

Note that these rules eliminate older rules in the 1987 regulations requiring choices as to whether to recalculate life expectancies; plan language and procedures calling for such recalculations (or stating that recalculation does not apply) are irrelevant after 2002.

If the participant's surviving spouse is the sole designated beneficiary, the surviving spouse's actual life expectancy is used as the denominator after the spouse's death, and any successor beneficiary must take distributions from the account based on the life expectancy of the spouse at death, reduced by one for each subsequent year. In other words, the surviving spouse is essentially treated like the participant was before the participant's death.

Death Before Distributions Begin. If the participant dies before distributions begin, payment of the participant's account must be made in full within 5 years of the participant's death (the "5-year rule") or, if the participant has named a "designated beneficiary" to receive benefits upon his death, a plan may provide that payments begin within one year after the

participant's death and be made over the life expectancy of the designated beneficiary (the "1-year rule").

The first step in determining the required post-death payout is to review the plan. In some cases, only lump sums are paid upon death. The plan may specify when these are to be paid. If they are paid within five years of the participant's death, the 401(a)(9) requirements will be met. Some plans require earlier payments; (e.g., within 1 year) and of course this is permitted as long as all amounts are distributed within 5 years. Other plans allow beneficiaries to elect the timing of payment as long as either the 5-year full payment, or 1-year life expectancy rule is met.

The Model Amendment provides for a variety of elections, but if the drafter merely parrots the amendment, the plan document may not reflect plan practice. This is because under the 1987 regulations, the "default" rule that applies if no election between the "5-year full" or "1-year start" method was made is the 5-year rule. This was helpful if a plan administrator accidentally forgot to start a distribution within a year, because the minimum distribution rules would not be violated as long as all amounts are distributed within 5 years. However, the IRS Model Amendment changes that default. If no election is made, the 1-year rule applies (presumably on the theory that the 1-year rule generally allows a longer payout). Plan administrators who are not careful and who merely adopt the Model Amendment might discover later that they inadvertently adopted the 1-year rule as a default.

The timing of the distribution depends not only on the plan document, but on the designated beneficiary. The person or persons who are designated beneficiaries must be named at the participant's death, although, as discussed above, a person can waive designated beneficiary status for purposes of these rules. Once the designated beneficiary status is determined, the law and plan document determine when benefits must commence. If the

designated beneficiary is the spouse, distributions must begin on the later of (i) the December 31st of the calendar year after the participant's death, or (ii) the December 31st of the year the participant would have attained age 70½. If the designated beneficiary is not the spouse, distribution must begin on the December 31st of the year following the participant's death (assuming the 1-year rule applies). If there is no designated beneficiary, all payments must be made within 5 years after the participant's death.

The amount to be distributed to a designated beneficiary will be some portion of the account balance for each distribution calendar year starting with the year after the participant's death. The amount is based on the account balance (as of the year of the participant's death), divided by the life expectancy of the designated beneficiary using the age as of the year after the participant's death, reduced by one for each subsequent year. Again, if the surviving spouse is the only beneficiary, the spouse is treated as if the spouse were the participant. (Thus, the spouse can wait until the participant would have turned 70½ to commence benefits if the plan allows.)

Separate Accounts and Trusts. Defined contribution plans may provide for separate "accounts" for each beneficiary. In that case, each beneficiary would receive benefits and distributions from that account as if it were separate, with all investment gains and losses, as well as any post-death distributions, separately allocated to each account. These separate accounts must be established by the December 31 of the year following the calendar year of the employee's death if the beneficiaries wish to disregard other beneficiaries in determining the minimum distribution.^{xi} For example, one separate account could be established for the spouse and another for other designated beneficiaries. The spouse's account would not have to begin distributions until the year after the participant would have turned 70½ or the end of the year of the participant's death (if later).

The minimum distribution rules also have special provisions in cases where a trust is named as a beneficiary. A trust can use the 1-year rule if the beneficiary or beneficiaries of the trust are “designated beneficiaries;” in that case, the trust beneficiaries lives are used for purposes of determining the required starting date and life expectancy of a beneficiary (if applicable). The deadline for providing all trust documentation needed to apply the minimum distribution rule to trust beneficiaries is October 31 of the year following the participant’s death. The new regulations provide a transition rule allowing plan administrators to receive documentation by October 31, 2003, if the deadline would apply before that date.^{xii}

Incidental Death Benefit. The final regulations require that the plan state the incidental death benefit rule of section 401(a)(9)(G), but the Model Amendment does not do that clearly. As the name implies, the incidental benefit rule requires that nonretirement benefits paid from a retirement plan be no more than “incidental.” These rules not only limit medical, disability, and other plan benefits which are governed by old IRS revenue rulings, but also survivor benefits (on the theory that such benefits cannot be too great as compared to pension benefits). The regulations provide that if a defined contribution plan satisfies the minimum distribution rules, the incidental benefit rules are met.^{xiii}

Applying the Rules to Defined Benefit Plans

The minimum distribution rules for defined benefit plans have similar concepts to those governing defined contribution plans, but focus more on annuity forms of benefit since those are generally required under such plans. Some of these rules are still temporary and may change. This could result in a delay of their effective date and a change in the required plan amendments.

Commencing Benefits While A Participant. As with defined contribution plans, the law requires that benefits begin by the April 1 of the year after the later of the participant's retirement or attainment of age 70½ (except that distribution to 5% owners must begin by the April 1 after the participant attains age 70½). Again, one must look to the plan to see what the plan permits -- some require that distributions begin at 70½; some require that distributions begin on the latest permissible date; others give a choice.

If the plan offers a lump sum, such distributions must be made by the required beginning date. The regulations explain how annuity benefits must be designed to meet these rules. Very generally:

1. a life annuity for the participant meets the minimum distribution requirements;
2. a joint and survivor annuity (of up to 100% of the participant's benefit to the spouse) for the participant and spouse is acceptable;
3. a joint and survivor annuity for a participant and non spouse beneficiary is acceptable as long as the percentage of the annuity paid to the beneficiary at the participant's death is no greater than the percentage allowed under the regulation's table (the "Applicable Percentage Table"). Under that table, for example, if the designated beneficiary is 10 or fewer years younger than the participant, a joint + 100% survivor annuity is permitted. If the beneficiary is 44 or more years younger, only a joint and 52% annuity is allowed.

Some plans offer period certain annuities; that is, payments guaranteed for 3, 5, or 10 years, even if the participant or beneficiary dies before that time. If a plan offers this form of benefit, the period certain cannot exceed the number of years set forth in the regulation's Uniform Lifetime Table based on the age of the participant. If the participant is 70, for example, the period certain cannot exceed 27.2 years. Most period certain designs will meet this requirement. Note that once payments have begun over a period certain, that period cannot change even if it was shorter than the maximum allowed. If the form of distribution combines a life annuity with a period certain feature (e.g., payable for Joe's life, but guaranteed for 10 years

if Joe dies before then), the annuity payment rules described above will apply after the period certain expires.

Special rules apply for spouse beneficiaries. If the participant's spouse is the sole beneficiary and the form of distribution is a period certain only distribution, the allowable period certain is the longer of the participant's distribution period (determined under the Uniform Life Tables) or the joint and last survivor expectancy of the participant and spouse as determined under the Joint and Last Survivor Tables set forth in the regulations.

The regulations (and the Model Amendment) make it clear that in order for these rules to apply, the annuity distribution must be made in intervals of not more than a year, and will be non-increasing or increase only in circumstances specified under the regulations (e.g., permitted COLAs or plans, benefit increases). Generally, the annuity must begin "irrevocably" so that the payment period rules do not change when the participant dies. This generally occurs with the purchase or start of annuities since to allow change after annuity payments begin would result in adverse selection.

Sometimes participants accrue additional benefits after the first distribution calendar year. This occurs if participants begin to receive benefits at age 70½ but continue working. Those additional accruals must be distributed in the first payment interval after the calendar year of accrual.

Payments Beginning After Death. If the participant dies before payments begin, the law requires that survivor benefits either be paid in their entirety within 5 years after death or begin within a year after death and be paid over the life or life expectancy of the designated beneficiary. As with defined contribution plans, the defined benefit plan design is permitted to require full payment earlier than 5 years.

Again, the timing of the required distributions depends on who is the designated beneficiary. If there is no designated beneficiary, payments must be made by the December 31 of the calendar year that contains the 5th anniversary of the participant's death.

If the designated beneficiary is the surviving spouse, payments can be delayed until the later of the December 31 of the year after the year of the participant's death, or the December 31 of the year in which the participant would have reached age 70½. If the surviving spouse dies after the participant, but before distributions begin, payments must begin as if the surviving spouse were the participant.

The permitted forms of benefits are similar to those allowed under the pre-death payment rules.

- a life annuity to the designated beneficiary is permitted;
- a period certain annuity is permitted as long as the period certain does not exceed the allowable period set forth in the Uniform Lifetime Table based on the beneficiary's age as of his birthday in the calendar year after the participant dies (the so-called first distribution calendar year), unless the annuity starting date is before that year, in which case it is based on the beneficiary's life expectancy in that earlier year. This rule seems ill-phrased in the Model Amendment. It appears to mean that, in general, you look to the beneficiary's age when the annuity starts. For example, if the participant dies in January of 2004, annuity payments might begin in 2004 because the beneficiary needs and wants the payments to begin. Therefore, because they begin before the required distribution calendar year of 2005, one would measure the beneficiary's life expectancy based on the beneficiary's birthday in 2004.

Separate Interests. Rules similar to those allowing separate accounts to beneficiaries in defined contribution plans apply to allow separate calculation of minimum distributions for designated beneficiaries in defined benefit plans as long as their interests are divided into separately identifiable components.^{xiv}

Incidental Death Benefit. As discussed above, the regulations governing defined benefit plans generally limit the extent to which survivor annuities can be paid.^{xv} If the survivor of a joint and survivor annuity is not the employee's spouse, the survivor portion of the annuity cannot be 100% of the employee's benefit; it is reduced pursuant to a table set forth in the regulations.

Model Amendment Issues

As noted at the beginning of this article, the Model Amendments try to distill the basic rules and provide language for use in the plan document. This is generally a helpful feature. However, the amendment has some pitfalls. First, it is written as a "snap-on" feature designed to override inconsistent plan provisions. While this makes adoption easier, it does cause confusion if a participant or plan administrator actually tries to read the plan.

Moreover, although the Model Amendment as written states that it only overrides inconsistent provisions, the language can be read by a person not familiar with the use of model amendments to offer a benefit form not otherwise provided in the plan. For example, some defined contribution plans only offer a lump sum death benefit and some require immediate distribution of death benefits. The discussion of annuity forms or the 5-year rule in the Model Amendments can cause confusion for those plan participants. It is recommended that the plan make it clear that the Model Amendment does not offer a new form of benefit.

Finally, as discussed above, the Model Amendment adopts the 1-year rule as the default provisions of the regulations. Thus, if one adopts the amendment verbatim, distribution after the death of a participant in a defined contribution plan must begin within one year and be made over the life expectancy of the designated beneficiary (if a designated beneficiary exists).^{xvi} A

plan that formerly allowed a beneficiary to choose to take all of his benefits under the 5-year rule will be altered unless the Model Amendment is altered. One might be able to argue that if such a choice is in the body of the plan, it is not altered by the Model Amendment because it only overrides “inconsistent” provisions in the plan. However, to avoid controversy at a later date, it is recommended that plan sponsors review the choices made for them in the Model Amendment very carefully, and use the ability to adopt the “adoption agreement” provisions incorporating the 5-year rule as the default rule into their plans if that is what they desire.

Effective Date Issues

These regulations apply to all distributions after January 1, 2003, even those that began as annuities or installments prior to that date. This causes some difficulties. For example, the permitted amount of time in which payments can be made depends in part on who constitutes the “designated beneficiary.” The new regulations provide that certain individuals can be excluded from that definition. The regulations make it clear that the designated beneficiary must be “redetermined” and that the applicable distribution period must be “reconstructed” in accordance with the new rules.^{xvii} In some cases, depending on the identity of the designated beneficiaries, required distributions may have been different under the old rules. It is unlikely that any employer contemplates re-examining payment streams that have already begun, but this technical issue remains unless corrected by the IRS.

Conclusion

Most employers have dealt with minimum distribution issues before this time. The new regulations generally liberalize the requirements and that is good news. The Model Amendment

also provides a road map of the basic rules and a good start for the drafter of any plan amendments. However, it is important to review the finer details of the regulations and Model Amendment to ensure that plan operations are permitted under the new rules and that the plan document, as written, reflects such operations. Finally, it is hoped that if Congress and the IRS do change these rules in the future, the change will be significant enough to warrant the time and attention needed to change plan documents and review plan procedures.

ⁱ Internal Revenue Code § 4974.

ⁱⁱ See, e.g., Notice 96-67, 1996-2 C.B. 235; Announcement 97-24, 1997-11 I.R.B. 24; Announcement 97-70, 1997-29 I.R.B. 14; Notice 97-75, 1997-2 C.B. 337; Announcement 98-63, 1998-2 C.B. 58.

ⁱⁱⁱ Treas. Reg. § 1.401(a)(9)-2.

^{iv} Treas. Reg. § 1.401(a)(9)-3.

^v Treas. Reg. § 1.401(a)(9)-4, Q&A-4.

^{vi} Treas. Reg. § 1.401(a)(9)-5, Q&A-7.

^{vii} Id. at Q&A-7(c).

^{viii} Treas. Reg. § 1.401(a)(9)-4 Q&A-3(b)(2).

^{ix} Treas. Reg. § 1.401(a)(9)-5 Q&A(3).

^x Treas. Reg. § 1.401(a)(9)-7.

^{xi} Treas. Reg. § 1.401(a)(9)-8 Q&A-2.

^{xii} Treas. Reg. § 1.401(a)(9)-4 Q&A-5(i).

^{xiii} Treas. Res. § 1.401(a)(9)-5.

^{xiv} Treas. Reg. § 1.401(a)(9)-8 Q&A 2(b).

^{xv} Treas. Reg. § 1.401(a)(9)-6T.

^{xvi} Treas. Reg. § 1.401(a)(9)-3 Q&A-4.

^{xvii} Treas. Reg. § 1.401(a)(9)-1, A-2(b).