GROOM LAW GROUP

Publications

Individual Account Plan MRD Rules

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SERVICES

Situation

1987 Proposed Regulations

2001 Proposed Regulations

2002 Final Regulations

Participant dies before his or her required beginning date (later of age 70 _ or the year in which the participant retires for plans; age 70 _ for IRAs). Default Rule:

Full account must be distributed by the end of the calendar year containing the fifth anniversary of the participant's death. ("Five Year Rule")

Special Rule for Surviving Spouse:

If a spouse was the participant's designated beneficiary, distributions can be made over the lifetime of the surviving spouse. Default Rule:

Distributions made over the lifetime of the participant's designated beneficiary (spouse or non-spouse).

Special Rule If No Designated Beneficiary:

If there is no designated beneficiary (e.g., a charity is named as beneficiary), the Five Year Rule applies. Default Rule:

Same as 2001 proposed regulations, i.e., a plan must specify if the 5-year rule is to apply.

Transition Rule:

Under a transition rule, a beneficiary that is receiving payments (either by election or default rule) under the five-year rule may elect to switch over to the life expectancy rule so long as all MRDs that would have been made under the life expectancy rule for distribution calendar years before 2004 are distributed by December 31, 2003 (or the end of the period determined under the five-year rule if the end of the five-year period is before December 31, 2003).Participant reaches his or her required beginning date. (See below for distributions continuing after a participant's death).Distributions must commence on or before a participant's required beginning date. Maximum period for distributions may be determined under one of the following methods:

1. Single life expectancy of the participant, recalculated annually.
2. Single life expectancy of the participant, no recalculation.
3. Joint life expectancy (participant and beneficiary/spouse), recalculation for participant only or for participant/spouse.
4. Joint life expectancy (participant and beneficiary/spouse), no recalculation.
5. Joint life expectancy (participant and spouse), recalculation method for both participant and spouse.
6. Joint life expectancy (participant and spouse), recalculation for spouse only.General Rule:

Distributions during the lifetime of the participant must be made over a period no longer than the period determined under a uniform table reflecting the joint life expectancy of the participant and a beneficiary ten years younger than the participant (which automatically satisfies Code Section 401(a)(9)(G)'s MDIB requirement).

Special Rule if Spouse is Sole Beneficiary:

Distributions during the lifetime of the participant must be made over a period not extending beyond the longer of (a) the distribution period calculated under the general rule and (b) the joint life distribution period calculated under the 1987 proposed regulations.

For all rules, life expectancy is calculated based on an individual's age on his or her birthday during the relevant calendar year, and the MRD amount is calculated based on the account balance at the end of the prior calendar year.General Rule:

Same as 2001 proposed regulations except that the uniform table has been revised to reflect the use of updated life expectancy factors mandated by EGTRRA. These updated factors result in slightly smaller MRDs because of the increased life expectancy now taken into account.

Special Rule if Spouse is Sole Beneficiary:

Same as 2001 proposed regulations except that the joint life distribution period is now calculated under mortality tables set forth in Treas. Reg. ¤ 1.401(a)(9)-9. These mortality tables result in smaller MRDs because of the increased life expectancy now taken into account.

Compliance with Incidental Benefit Requirement of Treasury Regulation ¤ 1.401-1(b)(1)(i):

A distribution that satisfies the MRD rules (including the MDIB requirements) will be deemed to satisfy the incidental benefit requirement of Treas. Reg. ¤ 1.401-1(b)(1)(i).Time for determining a participant's designated beneficiary.Distributions Commence Prior to Death:

Participant's beneficiary is generally determined as of the participant's required beginning date. Special rules apply if a beneficiary is replaced after a participant's first distribution calendar year but prior to his or her required beginning date.

Distributions Commence After Death:

Participant's beneficiary is determined on the date of the participant's death. Special rules may also apply if a spouse is the participant's beneficiary. Distributions Commence Prior to Death:

Generally no longer relevant (except for situations where distributions are made over the life expectancy of a spouse).

Distributions Commence After Death:

Participant's beneficiary is determined by December 31 of the calendar year following the year of a participant's death.Distributions Commence Prior to Death:

Same as 2001 proposed regulations.

Distributions Commence After Death:

Same as 2001 proposed regulations except that the December 31 determination date has been changed to September 30. This rule is intended to permit and coordinate with qualified disclaimers under Code section 2518.

Special Rule When a Participant's Beneficiary Dies:

When a participant's beneficiary dies after the participant's death but prior to September 30 of the year following the calendar year of the participant's death (i.e., dies without disclaiming), the beneficiary is still treated as a designated beneficiary, regardless of whether he or she is replaced by a new beneficiary as of the September 30 date.Participant reaches his or her required beginning date and commences distributions, but dies before entire interest is distributed. Distributions must be made at least as rapidly as required by the method of distribution used as of the date of the participant's death. If distributions were being based (in whole or in part) on the recalculated life expectancy of the participant, the life expectancy of the participant is reduced to zero in the year following death. General Rule:

After a participant dies, the remaining account balance must be distributed over a period no longer than the single life expectancy of the oldest designated beneficiary in the calendar year following the participant's death.

Special Rule if Spouse is Sole Beneficiary (Not Under Trust):

After a participant dies, distributions must be made over a period no longer than the life expectancy of the surviving spouse, redetermined each year. After the surviving spouse dies, the distribution period is the distribution period in effect on the year of the spouse's death, reduced by one for each subsequent year.

Special Rule for Post-Death Distributions if No Designated Beneficiary:

For years after the death of the participant, the distribution period is the participant's life expectancy in the year of death reduced by one for each subsequent year.General Rule:

After a participant dies, the remaining account balance must be distributed over a period no longer than the longer of (1) the single life expectancy of the oldest designated beneficiary in the calendar year following the participant's death and (2) the life expectancy of the participant in the year of his or her death reduced by one for each subsequent year.

Special Rule if Spouse is Sole Beneficiary (Not Under Trust):

Same as 2001 proposed regulations.

Special Rule for Post-Death Distributions if No Designated Beneficiary:

Same as 2001 proposed regulations.

For all rules, the new life expectancy tables in Treas. Reg. ¤ 1.401(a)(9)-9 are substituted for the section 72 tables used under the 1987 and 2001 proposed regulations. These new life expectancy tables result in slightly longer life expectancies than the old tables.Participant's account is divided into separate accounts for particular beneficiaries.MRD rules applied separately to each separate account (under IRS private letter rulings). Same as 1987 proposed regulations, but clarify that a portion of an account may be used to purchase an annuity contract (which is then subject to the MRD annuity rules) with the remainder distributed subject to the MRD account rules. Generally the same as the 2001 proposed regulations except that additional rules apply to the creation of separate accounts:

1. A separate account may be established at any time before or after a participant's required beginning date.
2. A separate account will not be recognized (and will not have a separate MRD calculated) until the later of the calendar year following the calendar year in which a participant dies and the year in which the separate account is established.
3. If a separate account is established before the end of the calendar year following the calendar year in which a participant dies, MRDs from the separate account after the death of the employee will be determined based solely on the beneficiaries of the separate accounts. Separate accounts established after this date will be aggregated for purposes of determining the applicable life expectancy for determining MRDs.
4. Prior to the recognition of the separate accounts (i.e., on the death of the participant), all gains, losses, contributions and forfeitures must be allocated among the separate accounts on a pro rata basis. However, after the death of the participant, separate investments may be held in each account (or the pro rata method may be continued).Other significant changes in MRD calculation rules.Contributions or Distributions After the Last Valuation Date in the Calendar Year:

Contributions that are made as of dates in the valuation calendar year after the valuation date must be included in the account balance for calculation purposes.

Distributions made in the valuation calendar year after the valuation date (including amounts distributed by April 1 that relate to a participant's first MRD payment) are deducted from the account balance for calculation purposes.

Determination of Marital Status:

Spousal status is determined on the earlier of an employee's required beginning date or death.

Multiple Beneficiaries:

All beneficiaries of an employee's benefit, including contingent beneficiaries, are taken into account for MRD calculation purposes.Contributions or Distributions After the Last Valuation Date in the Calendar Year:

Contributions that are made after the valuation calendar year as of dates in the valuation calendar year must be included in the account balance for calculation purposes.

Distributions made in the valuation calendar year after the valuation date (including amounts distributed by April 1 that relate to a participant's first MRD payment) are deducted from the account balance for calculation purposes.

Marital Status and Multiple Beneficiaries:

Same as 1987 proposed regulations.Contributions or Distributions After the Last Valuation Date in the Calendar Year:

Contributions made after the valuation date may be excluded from the account balance for calculation purposes.

Distributions made after the valuation calendar year are disregarded.

Change in Marital Status:

Changes in marital status (i.e., death or divorce) during a calendar year are disregarded until the next calendar year.

Multiple Beneficiaries:

Same as 2001 proposed regulations except that the 2002 regulations clarify that if a contingent beneficiary is or may be entitled to additional amounts beyond those of the original beneficiary, both beneficiaries must be taken into account in determining the designated beneficiary for MRD calculation purposes.

Defined Benefit Plan MRD Rules

Situation

1987 Proposed Regulations

2001 Proposed Regulations

2002 Temporary / Proposed Regulations

Participant begins receiving distributions that satisfy Code Section 401(a)(9) prior to his or her required beginning date. The date on which annuity distributions begin is treated as the required beginning date. Designated beneficiaries and life expectancies are determined as of that date.Same as 1987 proposed regulations, except that the new rule for determining the maximum distribution period for period-certain annuities applies (see below). When applying the uniform MRD table, the life expectancy period determined from the table is increased by the number of years between the participant's age as of his birthday during the year that contains the annuity starting date and age 70 (e.g., if a participant is 66 on such date, under the uniform table, the age 70 life expectancy (26.2) is increased by 4 to 30.2). Same as 2001 proposed regulations except for use of new mortality tables set forth in Treas. Reg. ¤ 1.401(a)(9)-9.Participant reaches his or her required beginning date and begins receiving MRDs in any annuity form (e.g., life annuity, period certain). Payments under either (a) period-certain life annuities of less than 20 years or (b) life annuities with periods certain not exceeding 20 years may begin distributions on required beginning date without retroactively making a payment for the participant's first distribution calendar year (e.g., if a participant's required beginning date is April 1, 1999, no payment is required for 1998 (even though the plan participant attained age 70 _ in 1998)). Rule in 1987 proposed regulations expanded to all annuities that satisfy Code Section 401(a)(9), regardless of annuity form (e.g., joint and survivor annuity).Same as 2001 proposed regulations.Participant reaches his or her required beginning date and elects to receive a period certain annuity. Maximum period for annuity distributions may be determined under one of the following methods:

1. Single life expectancy of the participant.
2. Joint life expectancy (participant and beneficiary/spouse).

General Rule:

Period certain annuity distributions during the lifetime of the participant must be made over a period no longer than the lesser of (a) the period determined under the uniform table used for defined contribution MRDs and (b) the joint life expectancy of the participant and his or her designated beneficiary determined under the Section 72 tables in the year that contains the annuity starting date.

Special Rule if Spouse is Sole Beneficiary:

Period certain annuity distributions during the lifetime of the participant must be made over a period no longer than the joint life distribution period calculated under the 1987 proposed regulations. General Rule:

Period certain annuity distributions during the lifetime of the participant must be made over the period determined under the uniform table used for defined contribution MRDs.

A period certain may not be lengthened or shortened after period certain payments have commenced. This rule is applicable even if the remaining life expectancy of a beneficiary after a participant's death is less than the remaining period certain.

Payments to a beneficiary do not need to be reduced because of the minimum distribution incidental benefit rules prior to the end of the period certain.

Special Rule if Spouse is Sole Beneficiary:

Period certain annuity distributions during the lifetime of the participant must be made over the longer of the period determined under the General Rule and the joint life distribution period calculated under Treas. Reg. ¤ 1.401(a)(9)-9.Minimum distribution incidental benefit rules. A separate proposed regulation limits the expected proportion of the annuity benefit that may benefit a participant's non-spouse beneficiary after participant's death.MDIB rules generally integrated into general rules for defined benefit plan MRDs. Generally the same as the 2001 proposed regulations except that:

1. Period certain annuity distributions to beneficiaries (i.e., survivor benefits) need not be reduced on account of the MDIB rules during the duration of period certain payments.
2. Annuities that provide for increasing payments (if otherwise permitted) will be deemed to satisfy the MDIB rules if the increase is determined in the same manner for both the participant and the beneficiary.
3. Payments in compliance with the MDIB rules (except for benefits that include an ancillary death benefit) are deemed to satisfy the incidental benefit rule in Treas. Reg. ¤ 1.401-1(b)(1)(i).Time for determining a participant's designated beneficiary.Distributions Commence Prior to Death:

Participant's beneficiary determined at any time during the period beginning 90 days before a participant's annuity starting date up to the annuity starting date.

Distributions Commence After Death:

Participant's beneficiary is determined on the date of the participant's death. Special rules may also apply if a spouse is the participant's beneficiary. Distributions Commence Prior to Death:

Participant's beneficiary determined as of the participant's annuity starting date.

Distributions Commence After Death:

Participant's beneficiary is determined by December 31 of the calendar year following the year of a participant's death. Designated beneficiary may be changed without impact on the maximum distribution period at any time up to the December 31 determination date.

Note: The maximum period for a period certain annuity commencing after a participant's death is the distribution period for distributions commencing after death under a defined contribution plan.Distributions Commence Prior to Death:

Same as 2001 proposed regulations.

Distributions Commence After Death:

Same as 2001 proposed regulations except that the December 31 determination date has been changed to September 30. This rule is intended to permit and coordinate with qualified disclaimers under Code section 2518.

Special Rule When a Participant's Beneficiary Dies:

When a participant's beneficiary dies after the participant's death and prior to September 30 of the year following the calendar year of the participant's death (i.e., dies without disclaiming), the beneficiary is still treated as a designated beneficiary, regardless of whether he or she is replaced by a new beneficiary as of the September 30 date.General exceptions to non-increasing annuity payment rule.In general, annuity payments must be non-increasing. However, annuity payments may be increased if the increase is:

1. A percentage-based increase based on a specified and generally recognized cost-of-living index.
2. On account of the termination of the reduction of an employee's benefit for the cost of survivor benefit coverage to be provided after the employee's death when such reduction terminates after the death of the beneficiary on whose joint life (with the Employee) MRDs are being calculated.
3. To provide cash refunds of employee contributions on the employee's death.
4. Because of an increase in benefits under the plan.Same as 1987 proposed regulations, with two new exceptions. Annuity payment may be increased after purchase of the annuity if:
    1. A survivor beneficiary is no longer a beneficiary because of a QDRO.
    2. The annuity is purchased from an insurance company and provides a cash refund on the participant's death equal to the difference between the amount of premiums paid and the total payments made under the contract.Generally carry forward exceptions in 2001 Proposed Regulations, with revisions including

A. Cost-of-Living Factors. The 2002 temporary / proposed regulations limit this exception by providing that only cost-of-living indexes that are based on the prices of all items and issued by the Bureau of Labor Statistics may be used.

B. Increase In Plan Benefits. The 2002 temporary / proposed regulations limit this rule by providing that an increase may only be provided if it results from a plan amendment.Non-increasing annuity exceptions (including for variable annuities) limited to commercial annuities under individual account and 403(a) plans.N/AN/AIn addition to the above general exceptions, the following types of increasing benefits may be provided under insurance company annuities if the total amount of expected payments, determined without regard to the permitted increases, exceed the account value being annuitized.

1. Annuities that increase by a scheduled constant percentage (not less frequently than annually) — e.g., 3% per year.
2. Annuities that provide a death benefit that does not exceed the excess of the account value being annuitized minus the total payments made before the death of the participant.
3. The provision in the 1987 and 2001 proposed regulations permitting variable annuities based on performance of underlying assets has been eliminated and replaced by a general set of rules applicable to insurance companies only (not to plan-provided annuity payments) that, according to the preamble, are intended to still permit variable annuities. Specifically, annuities may provide for dividend payments or payments of actuarial gains provided that (a) the actuarial experience is measured no less frequently than annually and (b) the resulting payment is either paid no later than the year following the year the actuarial experience is determined or is paid in the same form of payment as the current annuity over the remaining period of the annuity.4. Annuities providing for full or partial withdrawals if the value of these withdrawals do not exceed the total future expected payments (or, in the case of partial withdrawals, the pro rata portion) under the annuity contract as of the date of distribution (i.e., disregarding any future increase in the annuity value).Additional accruals and benefits that vest after annuity payments have commenced.Requires that additional annuity payments commence in the first payment interval ending in the calendar year after the calendar year when the additional benefit accrued.

Unvested benefits are not taken into account in calculating a participant's MRDs. Amounts that vest on or before December 31 of a distribution calendar year, or, with respect to a participant's first distribution calendar year, on or before the participant's required beginning date, are taken into account as additional accruals and subject to the rule applicable to additional accruals after the commencement of a participant's benefit payments. Same as 1987 proposed regulations, but clarify that while new accruals need to be taken into account in the first payment in the calendar year after they accrue, if such payments are delayed for administrative reasons, payment of the additional accruals (a make-up) need only be made prior to the end of the calendar year following the year in which they accrue.

Same as 2001 proposed regulations, except that: 1. In order to simplify the calculation of MRDs, amounts accrued after the first distribution calendar year are not taken into account for purposes of calculating MRDs until the calendar year after the calendar year in which they accrue; 2. The vague requirement that this additional accrual be paid as a "separate identifiable component" in the 2001

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proposed regulations is eliminated; and 3. Amounts that vest after a participant's first distribution calendar year but prior to participant's required beginning date are no longer treated as having accrued during the participant's first distribution calendar year. Treatment of distributions from a defined benefit plan that are not in the form of an annuity (e.g., a lump sum). Distributions not in the form of annuity are considered made from individual account for MRD purposes. Same as 1987 proposed regulations. The following rules now apply in place of the general rule in the 1987 and 2001 proposed regulations: 1. MRDs for lump sum distributions from defined benefit plans may be determined by either: a. Treating the lump sum as a distribution of a portion of the participant's account balance on which a MRD for the relevant year must be calculated; or b. Expressing the lump sum as an annuity that would satisfy the MRD rules and by treating the amount equivalent to one-year's worth of annuity payments as the MRD for the relevant year.(In either case, the amount in excess of the MRD would be rollover-eligible, but the MRD amount would not be.) 2. Distributions from an annuity contract in an individual account plan that have not irrevocably commenced are treated as individual account distributions rather than annuity distributions for MRD-calculation purposes. For this purpose, the current value of the account is the amount credited under the contract "plus the actuarial value of any other benefits (such as minimum survivor benefits)."Participant's account is separated into segregated shares. MRD rules applied to each share separately.Generally the same as 1987 proposed regulations. Generally the same as the 2001 proposed regulations, but applying the clarifications made for separate accounts under individual account plans.