Publication 575

Pension and Annuity Income

For use in preparing

2023 Returns

Volume 3 of 4

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Example. You receive an eligible rollover distribution of $10,000 from your employer's qualified employee plan. The payer withholds $2,000, so you actually receive $8,000. If you want to roll over the entire $10,000 to postpone including that amount in your income, you will have to get $2,000 from some other source to add to the $8,000 you actually received.

If you roll over only $8,000, you must include the $2,000 not rolled over in your income for the distribution year. Also, you may be subject to the 10% additional tax on the $2,000 if it was distributed to you before you reached age $59^1/2$.

Time for making rollover. You must generally complete the rollover of an eligible rollover distribution paid to you by the 60th day following the day on which you receive the distribution from your employer's plan.

The IRS may waive the 60-day requirement where the failure to do so would be against equity or good conscience, such as in the event of a casualty, disaster, or other event beyond your reasonable control.

Example. In the previous example, you received the distribution on June 30. To postpone including it in your income, you must complete the rollover by August 29, the 60th day following June 30.

Plan loan offset. A plan loan offset is the amount your employer plan account balance is reduced, or offset, to repay a loan from the plan. How long you have to complete the rollover of a plan loan offset depends on what kind of plan loan offset you have. For tax years beginning after 2017, if you have a qualified plan loan offset, you will have until the due date (including extensions) for your tax return for the tax year in which the offset occurs to complete your rollover.

A **qualified plan loan offset** occurs when a plan loan in good standing is offset because your employer plan terminates, or because you have a severance from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

Ways to get a waiver of the 60-day rollover requirement. There are three ways to obtain a waiver of the 60-day requirement.

- You qualify for an automatic waiver.
- You self-certify that you meet the requirements of a waiver.
- You request and receive a private letter ruling granting a waiver.

For more information about requesting a waiver of the 60-day rollover requirement, rollovers permitted between the various types of retirement plans (including IRAs), and other topics regarding rollovers, see *Rollovers* in Pub. 590-A.

Frozen deposits. If an amount distributed to you becomes a frozen deposit in a financial institution during the 60-day period after you receive it, the rollover period is extended. An amount is a frozen deposit if you can't withdraw it because of either:

- The bankruptcy or insolvency of the financial institution, or
- A restriction on withdrawals by the state in which the institution is located because of the bankruptcy or insolvency (or threat of it) of one or more financial institutions in the state.

The 60-day rollover period is extended by the period for which the amount is a frozen deposit and doesn't end earlier than 10 days after the amount is no longer a frozen deposit.

Retirement bonds. If you redeem retirement bonds purchased under a qualified bond purchase plan, you can roll over the proceeds that exceed your basis tax free into an IRA or qualified employer plan. Subsequent distributions of those proceeds, however, don't qualify for the 10-year tax option or capital gain treatment.

Annuity contracts. If an annuity contract was distributed to you by a qualified retirement plan, you can roll over an amount paid under the contract that is otherwise an eligible rollover distribution. For example, you can roll over a single-sum payment you receive upon surrender of the contract to the extent it is taxable and isn't an RMD.

Rollovers of property. To roll over an eligible rollover distribution of property, you must either roll over the actual property distributed or sell it and roll over the proceeds. You can't keep the distributed property and roll over cash or other property.

If you sell the distributed property and roll over all the proceeds, no gain or loss is recognized on the sale. The sale proceeds (including any portion representing an increase in value) are treated as part of the distribution and aren't included in your gross income.

If you roll over only part of the proceeds, you are taxed on the part you keep. You must allocate the proceeds you keep between the part representing ordinary income from the distribution (its value upon distribution) and the part representing gain or loss from the sale (its change in value from its distribution to its sale).

Example 1. On September 4, 2023, Paul received an eligible rollover distribution from his employer's noncontributory qualified employee plan of $50,000 in nonemployer stock. On September 24, 2023, he sold the stock for $60,000. On October 2, 2023, he contributed $60,000 cash to a traditional IRA.

Paul doesn't include either the $50,000 eligible rollover distribution or the $10,000 gain from the sale of the stock in his income. The entire $60,000 rolled over will be ordinary income when he withdraws it from his IRA.

Example 2. The facts are the same as in _Example 1_, except that Paul sold the stock for $40,000 and contributed $40,000 to the IRA. Paul doesn't include the $50,000 eligible rollover distribution in his income and doesn't deduct the $10,000 loss from the sale of the stock. The $40,000 rolled over will be ordinary income when he withdraws it from his IRA.

Example 3. The facts are the same as in _Example 1_, except that Paul rolled over only $45,000 of the $60,000 proceeds from the sale of the stock. The $15,000 proceeds he didn't roll over include part of the gain from the stock sale. Paul reports $2,500 ($10,000 ÷ $60,000 × $15,000) as capital gain and

$12,500 ($50,000 ÷ $60,000 × $15,000) as ordinary income.

Example 4. The facts are the same as in *Example 2*, except that Paul rolled over only $25,000 of the $40,000 proceeds from the sale of the stock. The $15,000 proceeds he didn’t roll over include part of the loss from the stock sale. Paul reports $3,750 ($10,000 ÷ $40,000 × $15,000) capital loss and $18,750 ($50,000 ÷ $40,000 × $15,000) ordinary income.

Property and cash distributed. If both cash and property were distributed and you didn't roll over the entire distribution, you may designate what part of the rollover is allocable to the cash distribution and what part is allocable to the proceeds from the sale of the distributed property. If the distribution included an amount that isn’t taxable (other than the NUA in employer securities) as well as an eligible rollover distribution, you may also designate what part of the nontaxable amount is allocable to the cash distribution and what part is allocable to the property. Your designation must be made by the due date for filing your tax return, including extensions. You can't change your designation after that date. If you don't make a designation on time, the rollover amount or the nontaxable amount must be allocated on a ratable basis.

Qualified domestic relations order (QDRO). You may be able to roll over tax free all or part of a distribution from a qualified retirement plan that you receive under a QDRO. (See *Qualified domestic relations order (QDRO)* under *General Information*, earlier.) If you receive the distribution as an employee's spouse or former spouse (not as a nonspouse beneficiary), the rollover rules apply to you as if you were the employee.

Rollover by surviving spouse. You may be able to roll over tax free all or part of a distribution from a qualified retirement plan you receive as the surviving spouse of a deceased employee. The rollover rules apply to you as if you were the employee. You can roll over the distribution into a qualified retirement plan or a traditional or Roth IRA. For a rollover to a Roth IRA, see *Rollovers to Roth IRAs*, later.

A distribution paid to a beneficiary other than the employee's surviving spouse is generally not an eligible rollover distribution. However, see *Rollovers by nonspouse beneficiary* next.

Rollovers by nonspouse beneficiary. If you are a designated beneficiary (other than a surviving spouse) of a deceased employee, you may be able to roll over tax free all or a portion of a distribution you receive from an eligible retirement plan of the employee. The distribution must be a direct trustee-to-trustee transfer to your traditional or Roth

IRA that was set up to receive the distribution. The transfer will be treated as an eligible rollover distribution and the receiving plan will be treated as an inherited IRA. For information on inherited IRAs, see *What if You Inherit an IRA?* in chapter 1 of Pub. 590-B.

How to report. Enter the total distribution (before income tax or other deductions were withheld) on Form 1040, 1040-SR, or 1040-NR, line 5a. This amount should be shown in box 1 of Form 1099-R. From this amount, subtract any contributions (usually shown in box 5 of Form 1099-R) that were taxable to you when made. From that result, subtract the amount that was rolled over either directly or within 60 days of receiving the distribution. Enter the remaining amount, even if zero, on Form 1040, 1040-SR, or 1040-NR, line 5b. Also, enter “Rollover” next to the line.

Written explanation to recipients. The administrator of a qualified retirement plan must, within a reasonable period of time before making an eligible rollover distribution, provide you with a written explanation. It must tell you about all of the following.

- Your right to have the distribution paid tax free directly to another qualified retirement plan or to a traditional or Roth IRA.
- The requirement to withhold tax from the distribution if it isn't directly rolled over.
- The nontaxability of any part of the distribution that you roll over within 60 days after you receive the distribution.
- Other qualified retirement plan rules that apply, including those for lump-sum distributions, alternate payees, and cash or deferred arrangements.
- How the distribution rules of the plan to which you roll over the distribution may

differ from the rules that apply to the plan making the distribution in their restrictions and tax consequences.

Reasonable period of time. The plan administrator must provide you with a written explanation no earlier than 90 days and no later than 30 days before the distribution is made. However, you can choose to have a distribution made less than 30 days after the explanation is provided as long as the following two requirements are met.

- You must have the opportunity to consider whether or not you want to make a direct rollover for at least 30 days after the explanation is provided.
- The information you receive must clearly state that you have the right to have 30 days to make a decision.

Contact the plan administrator if you have any questions regarding this information.

Designated Roth accounts. You can roll over an eligible rollover distribution from a designated Roth account into another designated Roth account or a Roth IRA. If you want to roll over the part of the distribution that isn't included in income, you must make a direct rollover of the entire distribution (see *Direct rollover option*, earlier) or you can roll over the entire amount (or any portion) to a Roth IRA. Also, if you are a plan participant in a 401(k), 403(b), or 457(b) plan, your plan may permit you to roll over amounts in those plans to a designated Roth account within the same plan (in-plan Roth rollover). The rollover of any untaxed amounts is included in income. See *In-plan Roth rollovers*, later.

A qualified distribution from a designated Roth account isn't includible in income. (A qualified distribution is defined earlier in the discussion of designated Roth accounts under *Taxation of Periodic Payments*).

If you roll over only part of an eligible rollover distribution that isn't a qualified distribution and not paid as a direct rollover contribution, the part rolled over is considered to be first from the income portion of the distribution.

Example. You receive an eligible rollover distribution that isn't a qualified distribution from your designated Roth account. The distribution consists of $11,000 (investment) and $3,000 (income earned). Within 60 days of receipt, you roll over $7,000 into a Roth IRA. The $7,000 consists of $3,000 of income and $4,000 of investment. Because you rolled over the part of the distribution that could be included in gross income (income earned), none of the distribution is included in gross income.

In-plan Roth rollovers. If you are a participant in a 401(k), 403(b), or 457(b) plan, your plan may permit you to roll over any vested amounts from those plans to a designated Roth account within the same plan. The in-plan Roth rollover must be an eligible rollover distribution (defined earlier under *Eligible rollover distribution*). Any untaxed amounts included in the in-plan Roth rollover must be included in income in the year you receive the distribution.

You can make the in-plan Roth rollover by direct transfer of the amount from the non-Roth account to your designated Roth account within the same plan. The 20% mandatory withholding doesn't apply to in-plan Roth rollovers made by direct rollover. You can also effect the in-plan Roth rollover by receiving an eligible rollover distribution from your 401(k), 403(b), or 457(b) plan and within 60 days depositing it into a designated Roth account in the same plan.

Your plan must provide a written explanation of the consequences of making an in-plan Roth rollover. In-plan Roth rollovers can't be undone. Unlike rollovers to Roth IRAs, you can't later recharacterize an in-plan Roth rollover.

If you received employer securities as a part of your in-plan Roth rollover distribution, the rollover is treated as a distribution for the purpose of NUA. See Distributions of employer securities*, earlier.*

Mandatory 20% withholding. A payor must normally withhold 20% when a rollover distribution is paid to you. However, some part of your distribution may not be subject to the mandatory 20% withholding. Otherwise nondistributable amounts aren't subject to the mandatory 20% withholding. An example of otherwise nondistributable amounts is employer matching contributions in a 401(k) plan. See *Payment-to-you option*, earlier.

You can't roll over amounts from your traditional TSP to your Roth TSP. See Pub. 721 for more details.

How to report. Enter the total amount of the distribution before income tax or deductions were withheld on Form 1040, 1040-SR, or 1040-NR, line 5a. This amount should be shown in box 1 of Form 1099-R. From this amount, subtract any contributions (usually shown in box 5 of Form 1099-R) that were taxable to you when made. Enter the remaining amount, even if zero, on Form 1040, 1040-SR, or 1040-NR, line 5b.

If you must include any amount in your gross income, you may have to increase your withholding or make estimated tax payments. See Pub. 505.

Rollovers to Roth IRAs. You can roll over distributions directly from a qualified retirement plan (other than a designated Roth account) to a Roth IRA. You must include in your gross income distributions from a qualified retirement plan (other than a designated Roth account) that you would have had to include in income if you hadn't rolled them over into a Roth IRA. You don't include in gross income any part of a distribution from a qualified retirement plan that is a return of contributions to the plan that were taxable to you when paid. In addition, the 10% tax on early distributions doesn't apply.

Any amount rolled over into a Roth IRA is subject to the same rules for converting a traditional IRA into a Roth IRA. For more information, see *Converting From Any Traditional IRA Into a Roth IRA* in chapter 1 of Pub. 590-A.

How to report. Enter the total amount of the distribution before income tax or deductions were withheld on Form 1040, 1040-SR, or 1040-NR, line 5a. This amount should be shown in box 1 of Form 1099-R. From this amount, subtract any contributions (usually shown in box 5 of Form 1099-R) that were taxable to you when made. Enter the remaining amount, even if zero, on Form 1040, 1040-SR, or 1040-NR, line 5b.

If you must include any amount in your gross income, you may have to increase your withholding or make estimated tax payments. See Pub. 505.

Choosing the right option. Table 1 may help you decide which distribution option to choose. Carefully compare the effects of each option.

Table 1. **Comparison of Payment to You Versus Direct Rollover**

Affected item	**Result of a payment to you**	**Result of a direct rollover**
Withholding	The payer must withhold 20% of the taxable part.	There is no withholding.

Additional tax	If you are under age 59 1/2, a 10% additional tax may apply to the taxable part (including an amount equal to the tax withheld) that isn't rolled over.	There is no 10% additional tax. See *Tax on Early Distributions*.
When to report as income	Any taxable part (including the taxable part of any amount withheld) not rolled over is income to you	Any taxable part isn't income to you until later distributed to you from the new plan or IRA.

	in the year paid.	However, see *Rollovers to Roth IRAs* for an exception.

Qualified settlement income. If you are a qualified taxpayer and you received qualified settlement income in connection with the Exxon Valdez litigation, you can contribute all or part of it to an eligible retirement plan. This includes a qualified retirement plan. The amount contributed can’t exceed $100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior tax years) or the amount of qualified settlement income received during the tax year. Contributions for the year can be made until the due date for filing your tax return, not including extensions.

Qualified settlement income that you contribute to a qualified retirement plan will be treated as having been rolled over in a direct trustee-to-trustee transfer within 60 days of the distribution. The amount contributed isn’t included in your taxable income and it isn’t considered to be investment in the contract.

You are a qualified taxpayer if you are:

- A plaintiff in the civil action *In re Exxon Valdez*, No. 89-095-CV (HRH) (Consolidated) (D. Alaska), or
- The beneficiary of the estate of a plaintiff who acquired the right to receive qualified settlement income from that plaintiff and who is the spouse or immediate relative of that plaintiff.

Qualified settlement income is any interest or punitive damage awards which are:

- Otherwise includible in income, and

- Received in connection with the Exxon Valdez civil action described (whether pre- or post-judgment and whether related to a settlement or a judgment).

Qualified settlement income can be received as periodic payments or as a lump sum. See Pub. 525 for information on how to report Exxon Valdez settlement income.

Special rule for Roth IRAs and designated Roth accounts. Qualified settlement income that is contributed to a Roth IRA or a designated Roth account will be:

- Included in your taxable income for the year the qualified settlement income was received, and
- Treated as part of your cost basis (investment in the contract) that isn't taxable when distributed.

Special Additional Taxes

To discourage the use of pension funds for purposes other than normal retirement, the law imposes additional taxes on early distributions of those funds and on failures to withdraw the funds timely. Ordinarily, you won't be subject to these taxes if you roll over all early distributions you receive, as explained earlier, and begin drawing out the funds at a normal retirement age in prorated amounts over your life expectancy. These special additional taxes are the taxes on:

- Early distributions, and
- Excess accumulation (not receiving minimum distributions).

These taxes are discussed in the following sections.

If you must pay either of these taxes, report them on Form 5329. However, you don't have to file Form 5329 if you owe only the tax on early distributions and your Form 1099-R correctly shows code “1” in box 7. Instead, enter 10% of the taxable part of the distribution on Schedule 2 (Form 1040), line 8. Also check the box on line 8 to indicate that you don't have to file Form 5329.

Even if you don't owe any of these taxes, you may have to complete Form 5329 and attach it to your Form 1040, 1040-SR, or 1040-NR. This applies if you meet an exception to the tax on early distributions but box 7 of your Form 1099-R doesn't indicate an exception.

Tax on Early Distributions

Most distributions (both periodic and nonperiodic) from qualified retirement plans and nonqualified annuity contracts made to you before you reach age $59^1/2$ are subject to an additional tax of 10%. This tax applies to the part of the distribution that you must include in gross income. It doesn't apply to any part of a distribution that is tax free, such as amounts that represent a return of your cost or that were rolled over to another retirement plan. It also doesn’t apply to corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions (discussed earlier under *Taxation of Nonperiodic Payments*).

For this purpose, a qualified retirement plan is:

- A qualified employee plan (including a qualified cash or deferred arrangement (CODA) under Internal Revenue Code section 401(k)),
- A qualified employee annuity plan,
- A tax-sheltered annuity plan (403(b) plan), or
- An eligible state or local governmental section 457 deferred compensation plan (to the extent that any distribution is attributable to amounts the plan received

in a direct transfer or rollover from one of the other plans listed here or an IRA).

5% rate on certain early distributions from deferred annuity contracts. If an early withdrawal from a deferred annuity is otherwise subject to the 10% additional tax, a 5% rate may apply instead. A 5% rate applies to distributions under a written election providing a specific schedule for the distribution of your interest in the contract if, as of March 1, 1986, you had begun receiving payments under the election. On line 4 of Form 5329, multiply the line 3 amount by 5% instead of 10%. Attach an explanation to your return.

Distributions from designated Roth accounts allocable to in-plan Roth rollovers within the 5-year period. If, within the 5-year period starting with the first day of your tax year in which you rolled over an amount from your 401(k), 403(b), or 457(b) plan to a designated Roth account, you take a distribution from the designated Roth account, you may have to pay the additional 10% tax on early distributions. You must generally pay the 10% additional tax on any amount attributable to the part of the in-plan Roth rollover that you had to include in income (recapture amount). A separate 5-year period applies to each in-plan Roth rollover. See *Figuring your recapture amount*, later, to determine the recapture amount, if any.

The 5-year period used for determining whether the 10% early distribution tax applies to a distribution allocable to an in-plan Roth rollover is separately determined for each in-plan Roth rollover, and isn't necessarily the same as the 5-year period used for determining whether a distribution is a qualified distribution.

Figuring your recapture amount. For any early distribution in 2023 from your designated Roth account that is allocable to an in-plan Roth rollover, you allocate the amount from box 10 of your 2023 Form 1099-R to the amounts, if any, you have rolled over into that designated Roth account.

If you haven’t taken a distribution from your designated Roth account before 2023, then allocate the amount in box 10 of your 2023 Form 1099-R to the amounts you reported on the lines listed in the Recapture Allocation Chart (filling in the Taxable column first, and then the Nontaxable column for each year) until you have covered the entire amount in box 10.

If you have taken a distribution from your designated Roth account prior to 2023, then allocate the amount in box 10 of your 2023 Form 1099-R to the amounts you reported on the lines listed in the Recapture Allocation Chart (filling in the Taxable column first, and then the Nontaxable column for each year). However, don't start at the beginning;

instead, begin with the first line that hasn’t been used fully for a previous distribution.

Your recapture amount is the sum of the amounts you allocated for 2011 through 2023 under the Taxable column in the Recapture Allocation Chart. You will also include this amount on Form 5329, line 1.

Example. You had an in-plan Roth rollover in 2023 of $50,000. This is your first in-plan Roth rollover. Your 2023 Form 1040 or 1040-SR includes $30,000 on line 5b, the taxable portion of the in-plan Roth rollover, and $50,000 on line 5a, the in-plan Roth rollover including $20,000 of basis.

In December 2023, at age 57, you took a distribution of $35,000 from your designated Roth account. The 2023 Form 1099-R shows the distribution of $35,000 reported in box 1, the taxable portion of the distribution of $3,500 reported in box 2a, and the amount of $31,500 allocable to the in-plan Roth rollover reported in box 10. Because you had no in-plan Roth rollovers in prior years, you would allocate the $31,500 reported in box 10 of Form 1099-R as shown in the Example Recapture Allocation Chart.

The recapture amount, the amount subject to tax on early distributions allocable to the in-plan Roth rollover, is $30,000 ($31,500 − $1,500). Your amount subject to tax on early distributions reported on Form 5329, line 1, for this distribution is $33,500 ($30,000 allocable to Form 1040 or 1040-SR, line 5b; and $3,500 from box 2a of Form 1099-R).

Exceptions to tax. Certain early distributions are excepted from the early distribution tax. If the payer knows that an exception applies to your early distribution, distribution code "2," "3," or "4" should be shown in box 7 of your Form 1099-R and you don't have to report the distribution on Form 5329. If an exception applies but distribution code "1" (early distribution, no known exception) is shown in box 7, you must file

Form 5329. Enter the taxable amount of the distribution shown in box 2a of your Form 1099-R on line 1 of Form 5329. On line 2, enter the amount that can be excluded and the exception number shown in the Form 5329 instructions.

TIP *If distribution code “1” is incorrectly shown on your Form 1099-R for a distribution received when you were age 59½ or older, include that distribution on Form 5329. Enter exception number “12” on line 2.*

General exceptions. The tax doesn’t apply to distributions that are:

- Made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from a qualified retirement plan, the payments must begin after separation from service) (see *Substantially equal periodic payments*, later);

- Made because you are totally and permanently disabled (see *Note*, later);
- Made to you because you have received a certification that you are terminally ill; or
- Made on or after the death of the plan participant or contract holder.

Disabled. You are considered disabled if you can furnish proof that you can't do any substantial gainful activity because of your physical or mental condition. A physician must determine that your condition can be expected to result in death or be of a long, continued, or indefinite duration.

Example Recapture Allocation Chart

Keep for Your Records

Tax Year	Taxable		Nontaxable (Basis)	
2010	Form 8606, line 23		Form 8606, line 22	
2011	Form 1040, line 16b;* Form 1040A, line 12b;* or Form 1040NR, line 17b*		Form 1040, line 16a**; Form 1040A, line 12a**; or Form 1040NR, line 17a**	
2012	Form 1040, line 16b;* Form 1040A, line 12b;* or Form 1040NR, line 17b*		Form 1040, line 16a;** Form 1040A, line 12a;** or Form 1040NR, line 17a**	
2022	Form 1040, 1040-SR, or 1040-NR, line 5b*		Form 1040, 1040-SR, or 1040-NR, line 5a**	
2023	Form 1040, 1040-SR, or 1040-NR, line 5b*	$30,000	Form 1040, 1040-SR, or 1040-NR, line 5a**	$1,500
	Total	$30,000	**Total**	$1,500

Note. The sum of the totals for each column should equal the amount reported in box 10 of your 2023 Form 1099-R.

* Only include those amounts attributable to an in-plan Roth rollover.

** Only include any contributions (usually box 5 of Form 1099-R) that were taxable to you when made and attributable to an in-plan Roth rollover.

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Distributions to terminally ill individuals. You may be able to take a distribution from a qualified retirement plan before reaching age $59^1/2$ and not have to pay the 10% additional tax on early distributions if you receive the distribution on or after the date you have received a certification by a physician that you are terminally ill.

Terminally ill individual. You are considered terminally ill if you are certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 84 months or less after the date of the certification.

Certification of terminal illness. A certification of terminal illness must include the following:

- A statement that the individual's illness or physical condition can be reasonably expected to result in death in 84 months or less after the date of certification.

- A narrative description of the evidence that was used to support the statement of illness or physical condition.
- It must include the name and contact information of the physician making the statement.
- The statement must include the date the physician examined the individual or reviewed the evidence provided by the individual, and the date that the physician signed the certification.
- The statement must include the signature of the physician making the statement, and an attestation from the physician that, by signing the form, the physician confirms that the physician composed the narrative description based on the physician’s examination of the individual or the physician’s review of the evidence provided by the individual.

However, it is not sufficient evidence for an employee who is a physician to certify the physician's own terminal illness.

Amount may be repaid. You may repay an amount you received because you are certified terminally ill by making one or more contributions to the plan as long as the total of those contributions doesn't exceed the amount distributed to you as a terminally ill individual.

Additional exceptions for qualified retirement plans. The 10% additional tax doesn't apply to distributions that are:

- From a qualified retirement plan (other than an IRA) after your separation from service in or after the year you reached age 55 (the earlier of age 50 or 25 years of service under the plan for qualified public safety employees) (see *Separation from service*, later);

- From a qualified retirement plan (other than IRA) after your separation from service in or after the year you reached the earlier of age 50 or 25 years of service under the plan, if you are a private sector firefighter.
- From a qualified retirement plan (other than an IRA) to an alternate payee under a QDRO;
- From a qualified retirement plan to the extent you have deductible medical expenses that exceed 7.5% of your adjusted gross income, whether or not you itemize your deductions for the year;
- From an employer plan under a written election that provides a specific schedule for distribution of your entire interest if, as of March 1, 1986, you had separated from service and had begun receiving payments under the election;

- From an employee stock ownership plan for dividends on employer securities held by the plan;
- From a qualified retirement plan due to an IRS levy of the plan;
- From elective deferral accounts under 401(k) or 403(b) plans, or similar arrangements, that are qualified reservist distributions;
- Phased retirement annuity payments made to federal employees (see Pub. 721 for more information on the phased retirement program); or
- From a qualified retirement plan (other than an IRA) for a qualified birth or adoption (for more information, see *Qualified birth or adoption distributions*, later).

Separation from service. In order to meet the requirements for the first two exceptions in the list above, you must have separated from service in or after the year in which you reach age 55 (or the earlier of age 50 or with 25 years of service under the plan, whichever is earlier, for qualified public safety employees and private sector firefighters).

You can't separate from service before that year. Wait until you reach the applicable age, described above, and take a distribution.

Example. George separated from service from his employer at age 49. In the year he reached age 55, he took a distribution from his retirement plan. Because he separated from service before he reached age 55, he didn't meet the requirements for the exception for a distribution made from a qualified retirement plan (other than an IRA) after separating from service in or after reaching age 55.

Qualified public safety employees. If you are a qualified public safety employee, distributions that are made from a governmental retirement plan may not be subject to the 10% additional tax on early distributions. See *Certain distributions to qualified public safety employees*, later.

You are a qualified public safety employee if you provided police protection, firefighting services, or emergency medical services for a state or municipality.

For tax years beginning after 2015, the definition of qualified public safety employees is expanded to include:

- Federal law enforcement officers,
- Federal customs and border protection officers,
- Federal firefighters,
- Air traffic controllers,
- Nuclear materials couriers,
- Members of the United States Capitol Police,

- Members of the Supreme Court Police, and
- Diplomatic security special agents of the United States Department of State.

Certain distributions to qualified public safety employees. The exception to the 10% additional tax for early distributions applies to distributions made to qualified public safety employees and firefighters covered by private sector retirement plans after separation from service on or after they reach age 50 or with 25 years of service under the plan, whichever is earlier. The exception also includes distributions to those employees who meet the age or years of service requirement, as described earlier, who provide services as a corrections officer or as a forensic security employee providing for the care, custody, and control of forensic patients.

Qualified reservist distributions. A qualified reservist distribution isn't subject to the additional tax on early distributions. A qualified reservist distribution is a distribution (a) from elective deferrals under a section 401(k) or 403(b) plan, or a similar arrangement; (b) to an individual ordered or called to active duty (because they are a member of a reserve component) for a period of more than 179 days or for an indefinite period; and (c) made during the period beginning on the date of the order or call and ending at the close of the active duty period. You must be ordered or called to active duty after September 11, 2001.

TIP *You can choose to recontribute part or all of the distributions to an IRA. These additional contributions must be made within 2 years after your active-duty period ends. Any amount recontributed must be reported on Form 8606 as a nondeductible contribution. You can't take a deduction for* *these contributions. However, the normal dollar limitations for contributions to IRAs don't apply to these special contributions, and you can make regular contributions to your IRA, up to the amount otherwise allowable.*

Qualified birth or adoption distributions. A qualified birth or adoption distribution isn't subject to the additional tax on early distributions. An individual can receive up to $5,000 from an applicable eligible retirement plan for a distribution made during the 1-year period beginning on the date on which a child of the individual is born or the date on which the legal adoption by the individual of an eligible adoptee is finalized. For more information on qualified birth or adoption distributions, see Notice 2020-68, which is on page 567 of Internal Revenue Bulletin 2020-38 at *IRS.gov/pub/irs-irb20-38.pdf*.

Repayment of qualified birth or adoption distributions limited to 3 years. If you received a qualified birth or adoption distribution after December 29, 2022, you may repay the distribution by making one or more contributions to a qualified plan during the 3-year period beginning on the day after the date on which the distribution was received. For distributions received on or before December 29, 2022, you may repay the distribution during the period that begins after the distribution was received and ending on the date before January 1, 2026.

Additional exceptions for nonqualified annuity contracts. The tax doesn't apply to distributions that are: • From a deferred annuity contract to the extent allocable to investment in the contract before August 14, 1982;

- From a deferred annuity contract under a qualified personal injury settlement;
- From a deferred annuity contract purchased by your employer upon termination of a qualified employee plan or qualified employee annuity plan and

held by your employer until your separation from service; or

- From an immediate annuity contract (a single premium contract providing substantially equal annuity payments that start within 1 year from the date of purchase and are paid at least annually).

Substantially equal periodic payments. Payments are substantially equal periodic payments if they are made in accordance with one of the following methods.

1. ***Required minimum distribution method.*** Under this method, the resulting annual payment is redetermined for each year.

2. ***Fixed amortization method.*** Under this method, the resulting annual payment is determined once for the first distribution year and remains the same amount for each succeeding year.

3. ***Fixed annuitization method.*** Under this method, the resulting annual payment is determined once for the first distribution year and remains the same amount for each succeeding year.

For information on these methods, see Notice 2022-6 at *IRS.gov/irb/2022-05_IRB#NOT-2022-06*.

TIP *A change from method (2) or (3) to method (1) isn't treated as a modification to which the recapture tax (discussed next) applies.*

Note. For a series of substantially equal periodic payments starting in 2022, you may apply the guidance either in Notice 2022-6, or in Revenue Ruling 2002-62 which is on page 710 of Internal Revenue Bulletin 2002-42 at *IRS.gov/pub/irs-irbs/irb02-42.pdf*.

TIP *Distributions received as periodic payments on or after December 29, 2022, will not fail to be treated as substantially equal merely because they are received as an annuity.*

Recapture tax for changes in distribution method under equal payment exception. An early distribution recapture tax may apply if, before you reach age $59\frac{1}{2}$, the distribution method under the equal periodic payment exception changes (for reasons other than your death or disability). The tax applies if the method changes from the method requiring equal payments to a method that wouldn’t have qualified for the exception to the tax. The recapture tax applies to the first tax year to which the change applies. The amount of tax is the amount that would have been imposed had the exception not applied, plus interest for the deferral period.

The recapture tax also applies after you reach age $59^1/2$ if your payments under a distribution method that qualifies for the exception are modified within 5 years of the date of the first payment. In that case, the tax applies only to payments distributed before you reach age $59^1/2$.

Report the recapture tax and interest on line 4 of Form 5329. Attach an explanation to the form. Don’t enter the explanation next to the line or enter any amount for the recapture on line 1 or 3 of the form.

Tax on Excess Accumulation

To make sure that most of your retirement benefits are paid to you during your lifetime, rather than to your beneficiaries after your death, the payments that you receive from qualified retirement plans must begin no later than your required beginning date (defined later). The payments each year can’t be less than the RMD.

If the actual distributions to you in any year are less than the RMD for that year, you are subject to an additional tax. The tax equals 50% of the part of the RMD that wasn’t distributed.

For this purpose, a qualified retirement plan includes:

- A qualified employee plan,
- A qualified employee annuity plan,
- An eligible section 457 deferred compensation plan, or
- A tax-sheltered annuity plan (403(b) plan) (for benefits accruing after 1986).

Reduced tax rate for excess accumulations. The additional tax rate for distributions that are less than the RMD amount (excess accumulations) is reduced to 25% for tax years beginning in 2023 and after.

You may be subject to a reduced additional tax rate of 10% of the amount not distributed if, during the correction window, you take a distribution of the amount on which the tax is due and submit a tax return reflecting this additional tax.

The “correction window” is the period of time beginning on the date on which the additional tax is imposed on the distribution shortfall and ends on the earliest of:

- The date of mailing the deficiency notice with respect to the imposition of this tax;
- The date the tax is assessed; or
- The last day of the second tax year that begins after the date of the tax year in which the additional tax is imposed.

Waiver. The tax may be waived if you establish that the shortfall in distributions was due to reasonable error and that reasonable steps are being taken to remedy the shortfall. If you believe you qualify for this relief, you must file Form 5329. Enter “RC” and the amount you want waived in parentheses on the dotted line next to line 54, and attach a letter of explanation. Subtract this amount from the total shortfall you figured without regard to the waiver and enter the result on line 54.

State insurer delinquency proceedings. You might not receive the minimum distribution because assets are invested in a contract issued by an insurance company in state insurer delinquency proceedings. If your payments are reduced below the minimum because of these proceedings, you should contact your plan administrator. Under certain conditions, you won’t have to pay the 50% tax.

Required beginning date. Unless the rule for 5% owners applies, you must generally begin to receive distributions from your qualified retirement plan by April 1 of the year that follows the later of:

- The calendar year in which you reach age 73, or
- The calendar year in which you retire from employment with the employer maintaining the plan.

However, your plan may require you to begin to receive distributions by April 1 of the year that follows the year in which you reach age 73 even if you haven't retired.

5% owners. If you are a 5% owner, you must begin to receive distributions from the plan by April 1 of the year that follows the calendar year in which you reach age 73. This rule doesn't apply if your retirement plan is a governmental or church plan.

You are a 5% owner if, for the plan year ending in the calendar year in which you reach age 73, you own (or are considered to own under section 318 of the Internal Revenue Code) more than 5% of the outstanding stock (or more than 5% of the total voting power of all stock) of the employer, or more than 5% of the capital or profits interest in the employer.

Required distributions. By the required beginning date, you must either:

- Receive your entire interest in the plan (for a tax-sheltered annuity, your entire benefit accruing after 1986), or
- Begin receiving periodic distributions in annual amounts calculated to distribute your entire interest (for a tax-sheltered annuity, your entire benefit accruing after 1986) over your life or life expectancy or over the joint lives or joint life expectancies of you and a designated beneficiary (or over a shorter period).

After the starting year for periodic distributions, you must receive at least the RMD for each year by December 31 of that year. (The starting year is the year in which you reach age 73 or retire, whichever applies in determining your required beginning date.) If no distribution is made in your starting year, the RMDs for 2 years must be made the following year (one by April 1 and one by December 31).

Distributions after the employee's death. If the employee was receiving periodic distributions before their death and the employee dies after the required beginning date, any payments not made as of the time of death must generally be distributed at least as rapidly as under the distribution method being used at the date of death.

In addition, if distributions are being made from a defined contribution plan and the employee's beneficiary is not an eligible designated beneficiary, any payments not made as of the time of death must be distributed within 10 years after the death of the employee. An eligible designated beneficiary is the employee's spouse, the employee's child who has not reached majority, a disabled individual, a chronically ill individual, or an individual not more than 10 years younger than the employee.

If the employee dies before the required beginning date, the entire account must be distributed under one of the following rules.

1. **Rule 1.** The distribution must be completed by December 31 of the 5th year following the year of the employee's death if the employee was a participant in a defined benefit plan or if there's no designated beneficiary.
2. **Rule 2.** The distribution must be completed by December 31 of the 10th year following the year of the employee's death if the employee was a participant in a defined contribution plan and designated an individual as the beneficiary under the plan.
3. **Rule 3.** The distribution must be made in annual amounts over the life of an

individual designated as a beneficiary under a defined benefit plan or life expectancy of an eligible designated beneficiary under a defined contribution plan.

The terms of the plan may determine which of these three rules applies. If the plan permits the employee or the eligible designated beneficiary to choose the rule that applies, this choice must be made by the earliest date a distribution would be required under either of the rules. Generally, this date is December 31 of the year following the year of the employee's death.

If the employee or the eligible designated beneficiary didn’t choose a rule and the plan doesn’t specify the rule that applies, distribution must be made under Rule 3 if the employee has an eligible designated beneficiary (or in the case of a defined benefit plan, an individual was designated as the beneficiary under the plan) or under Rule 2 if the employee was a participant in a defined contribution plan, and has designated an individual as the beneficiary under the plan, but that individual isn't an eligible designated beneficiary. If an employee doesn't have a designated beneficiary, distribution must be made under Rule 1.

Distributions under Rule 3 must generally begin by December 31 of the year following the year of the employee's death. However, if the surviving spouse is the beneficiary, distributions need not begin until December 31 of the year the employee would have reached age 73, if later.

If the surviving spouse is the designated beneficiary and distributions are to be made under Rule 3, a special rule applies if the spouse dies after the employee but before distributions are required to begin. In this case, distributions may be made to the spouse's beneficiary under either Rule 1, Rule 2, or Rule 3 as though the beneficiary were the employee's beneficiary and the employee died on the spouse's date of death. However, if the surviving spouse remarries after the employee's death and the new spouse is designated as the spouse's beneficiary, this special rule applicable to surviving spouses doesn’t apply to the new spouse.

If distributions from a defined contribution plan began under Rule 3 and the eligible designated beneficiary dies or a beneficiary who is a minor child reaches majority, distributions must be completed by December 31 of the 10th year following the year of the beneficiary's death or the child reaching majority.

Minimum distributions from an annuity plan. Special rules may apply if you receive distributions from your retirement plan in the form of an annuity. Your plan administrator should be able to give you information about these rules.

Minimum distributions from an individual account plan. Your plan administrator should be able to give you information about how the amount of your RMD was figured.

If there is an account balance to be distributed from your plan (not as an annuity), your plan administrator must figure the minimum amount that must be distributed from the plan each year.

What types of installments are allowed? The minimum amount that must be distributed for any year may be made in a series of installments (for example, monthly or quarterly) as long as the total payments for the year made by the date required aren't less than the minimum amount required for the year.

More than minimum. Your plan can distribute more in any year than the minimum amount required for that year; but if it does, you won't receive credit for the additional amount in determining the minimum amount required for future years. However, any amount distributed in your starting year will be credited toward the amount required to be distributed by April 1 of the following year.

Combining multiple accounts to satisfy the minimum distribution requirements. Generally, the RMD must be figured separately for each account. Each qualified employee retirement plan and qualified annuity plan must be considered individually in satisfying its distribution requirements. However, if you have more than one tax-sheltered annuity account, you can total the RMDs and then satisfy the requirement by taking distributions from any one (or more) of the tax-sheltered annuities.

Survivors and Beneficiaries

Generally, a survivor or beneficiary reports pension or annuity income in the same way the plan participant would have reported it. However, some special rules apply, and they are covered elsewhere in this publication as well as in this section.

Estate tax deduction. You may be entitled to a deduction for estate tax if you receive amounts included in your income as income in respect of a decedent under a joint and survivor annuity that was included in the decedent's estate. You can deduct the part of the total estate tax that was based on the annuity, provided that the decedent died after their annuity starting date. (For details, see Regulations section 1.691(d)-1.) Deduct it in equal amounts over your remaining life expectancy.

If the decedent died before the annuity starting date of a deferred annuity contract and you receive a death benefit under that contract, the amount you receive (either in a lump sum or as periodic payments) in excess of the decedent's cost is included in your gross income as income in respect of a decedent for which you may be able to claim an estate tax deduction.

You can take the estate tax deduction as an itemized deduction on Schedule A (Form 1040). This deduction isn’t subject to the 2%-of-adjusted-gross-income limit on miscellaneous deductions. See Pub. 559, Survivors, Executors, and Administrators, for more information on the estate tax deduction.

Survivors of employees. Distributions the beneficiary of a deceased employee gets may be accrued salary payments; distributions from employee profit-sharing, pension, annuity, or stock bonus plans; or other items. Some of these should be treated separately for tax purposes. The treatment of these distributions depends on what they represent.

Salary or wages paid after the death of the employee are usually the beneficiary's ordinary income. If you are a beneficiary of an employee who was covered by any of the retirement plans mentioned, you can exclude from income nonperiodic distributions received that totally relieve the payer from the obligation to pay an annuity. The amount that you can exclude is equal to the deceased employee's investment in the contract (cost).

If you are entitled to receive a survivor annuity on the death of an employee, you can exclude part of each annuity payment as a tax-free recovery of the employee's investment in the contract. You must figure the taxable and tax-free parts of each payment using the method that applies as if you were the employee. For more information, see *Taxation of Periodic Payments*, earlier.

Survivors of retirees. Benefits paid to you as a survivor under a joint and survivor annuity must be included in your gross income. Include them in income in the same way the retiree would have included them in gross income. See *Partly Taxable Payments* under *Taxation of Periodic Payments*, earlier.

If the retiree reported the annuity under the 3-year Rule and recovered all of the cost tax free, your survivor payments are fully taxable.

If the retiree was reporting the annuity under the General Rule, you must apply the same exclusion percentage to your initial survivor annuity payment called for in the contract. The resulting tax-free amount will then remain fixed for the initial and future payments. Increases in the survivor annuity are fully taxable. See Pub. 939 for more information on the General Rule.

If the retiree was reporting the annuity under the Simplified Method, the part of each payment that is tax free is the same as the tax-free amount figured by the retiree at the annuity starting date. This amount remains fixed even if the annuity payments are increased or decreased. See *Simplified Method* under *Taxation of Periodic Payments*, earlier.

Guaranteed payments. If you receive guaranteed payments as the decedent's beneficiary under a life annuity contract, don’t include any amount in your gross income until your distributions plus the tax-free distributions received by the life annuitant equal the cost of the contract. All later distributions are fully taxable. This rule doesn’t apply if it is possible for you to collect more than the guaranteed amount. For example, it doesn’t apply to payments under a joint and survivor annuity.

Disaster-Related Relief

Introduction

The special rules that provide for tax-favored withdrawals and repayments from certain qualified plans for taxpayers who suffered an economic loss as a result of a qualified disaster were made permanent by the SECURE 2.0 Act of 2022. See *Qualified disaster recovery distributions* and *Qualified*

Disaster Distributions, later, for more information.

The principles set forth in Notice 2005-92, 2005-51 I.R.B. 1165, available at *IRS.gov/irb/2005-51_IRB* (which provides guidance on the tax-favored treatment of distributions for victims of Hurricane Katrina), and Notice 2020-50, 2020-28 I.R.B. 35, available at *IRS.gov/IRB/ 2020-28_IRB* (which provides guidance on the tax-favored treatment of distributions for individuals impacted by the coronavirus pandemic), generally also apply to these rules.

If you received a qualified disaster recovery distribution or a qualified disaster distribution (both defined later), it is taxable but isn't subject to the 10% additional tax on early distributions. (Use Form 8915-F to figure the taxable portion of the distribution.) However, the distribution is included in income ratably over 3 years unless you elect to report the entire amount in the year of distribution. For example, if you received a $60,000 qualified disaster distribution in 2020, you can include $20,000 in your income in 2020, 2021, and 2022. However, you can elect to include the entire distribution in your income in the year it was received. Also, you can repay the distribution and not be taxed on the distribution. See *Repayment of Qualified Disaster Distributions*, later.

CAUTION *The distribution limit for qualified disaster recovery distributions is not the same as the limit for qualified disaster distributions. See* Distribution limit for qualified disaster recovery distributions *and* Distribution limit for qualified disaster distributions*, later, for more information.*

If you received a distribution from an eligible retirement plan to purchase or construct a main home but didn't purchase or construct a main home because of a major disaster, you may be able to repay the distribution and not pay income tax or the 10% additional tax on early distributions. See *Recontribution of Qualified Distributions for the Purchase or Construction of a Main Home*, later.

Use Forms 8915-C, 8915-D, and 8915-F to report qualified disaster distributions and repayments. Also report recontributions of qualified distributions for home purchases and construction that were canceled because of qualified 2018, 2019, 2020, or later disasters on Form 8915-C, 8915-D, or 8915-F, as applicable.

Qualified Disaster Recovery Distributions

A qualified disaster recovery distribution is a qualified disaster distribution that meets certain criteria as described in the SECURE 2.0 Act of 2022. It is a distribution made from an eligible retirement plan to an individual whose main home was in a qualified disaster area during the period described under *Qualified disaster recovery distribution*, later.

This individual must have sustained an economic loss because of the disaster.

Main home (principal place of abode). Generally, your main home is the home where you live most of the time. A temporary absence due to special circumstances, such as illness, education, business, military service, evacuation, or vacation, won’t change your main home.

Qualified disaster. A qualified disaster means any major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act after December 27, 2020.

Qualified disaster area. A qualified disaster area means any area with respect to which the major disaster was declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This term does 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.

A qualified disaster area under section 301 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 would be a major disaster that was declared by the President during the period between January 1, 2020, and February 25, 2021. Also, this disaster must have an incident period that began on or after December 28, 2019, and on or before December 27, 2020, and must have ended no later than January 26, 2021. The definition of a qualified disaster loss does not extend to any major disaster which has been declared only by reason of COVID-19.

Incident period. The incident period for any qualified disaster is the period specified by the Federal Emergency Management Agency (FEMA) as the period during which the disaster occurred.

Qualified disaster recovery distribution. A qualified disaster recovery distribution is any distribution:

- Made 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
- Made to an individual whose principal place of abode at any time during such qualified disaster is located in the qualified disaster area, and
- That individual has sustained an economic loss by reason of such qualified disaster.

Economic loss. Qualified disaster distributions are permitted without regard to your need or the actual amount of your economic loss. Examples of an economic loss include, but aren't limited to:

1. Loss, damage to, or destruction of real or personal property from fire,

flooding, looting, vandalism, theft, wind, or other cause;

2. Loss related to displacement from your home; or

3. Loss of livelihood due to temporary or permanent layoffs.

Eligible retirement plan. An eligible retirement plan can be any of the following.

- A qualified pension, profit-sharing, or stock bonus plan (including a 401(k) plan).
- The federal Thrift Savings Plan.
- A qualified annuity plan.
- A tax-sheltered annuity contract.
- A governmental section 457 deferred compensation plan.
- A traditional, SEP, SIMPLE, or Roth IRA (including Roth SEP and SIMPLE IRAs).

Applicable date. The term “applicable date” means the latest of:

- December 29, 2022;
- The first date of the incident period for the qualified disaster; or
- The declaration date of the qualified disaster.

Distribution limit for qualified disaster recovery distributions. The total of your qualified disaster recovery distributions from all plans is limited to $22,000 per disaster. If you take distributions from more than one type of plan, such as a 401(k) plan and an IRA, and the total amount of your distribution exceeds $22,000, you may allocate the $22,000 limit among the plans by any reasonable method you choose.

Qualified Disaster Distributions

The definition of a qualified disaster distribution is a distribution made from an eligible retirement plan to an individual whose main home was in a qualified disaster area (described next) at any time during that disaster's incident period and who sustained an economic loss because of the disaster.

Qualified disaster area for qualified disaster distributions. A qualified disaster area is any area with respect to which a major disaster was declared after 2017 and before February 26, 2021, by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, except the California wildfire disaster area defined in the Bipartisan Budget Act of 2018, or any area with respect to which a major disaster has been declared solely due to COVID-19.

Incident period for qualified distributions. The incident period for any qualified disaster is the period specified by the Federal Emergency Management Agency (FEMA) as the period during which the disaster occurred, but not including any dates before 2018. This includes those disasters that occurred on or after December 28, 2020, and continued no later than January 26, 2021.