

## **Guidance on Qualified Long-Term Care Distributions**

### **Notice 2026-33**

#### **I. PURPOSE**

This notice provides guidance on qualified long-term care distributions, as permitted under section 401(a)(39) of the Internal Revenue Code (Code). In particular, the notice provides guidance to providers of certified long-term care insurance (issuers) relating to the disclosure and reporting requirements under sections 401(a)(39) and 6050Z. In addition, the notice provides guidance under sections 72(t)(2)(N) and 401(a)(39) to plan administrators making and individuals receiving qualified long-term care distributions, including setting forth safe harbors for plan administrators in making qualified long-term care distributions. This notice also extends the deadline for a plan sponsor of a defined contribution plan that is not a governmental plan (within the meaning of section 414(d)), a section 403(b) plan maintained by a public school, or an applicable collectively bargained plan, to amend its eligible retirement plan to permit qualified long-term care distributions.

#### **II. BACKGROUND**

On December 29, 2022, Division T of the Consolidated Appropriations Act, 2023, Public Law 117-328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), was enacted. Section 334 of the SECURE 2.0 Act amended sections 72(t) and 401(a) (among other provisions) to permit defined contribution plans to make qualified long-term care distributions and added section 6050Z to the Code to provide related reporting requirements. Section 334 of the SECURE 2.0 Act is effective for distributions made after December 29, 2025.

## 1. Section 401(a)(39) of the Code

Section 334(a) of the SECURE 2.0 Act amended section 401(a) of the Code to add section 401(a)(39). Section 401(a)(39)(A) provides that a trust forming part of a qualified defined contribution plan will not be treated as failing to constitute a qualified trust under section 401(a) solely because the plan permits qualified long-term care distributions.

Section 401(a)(39)(B) defines the term “qualified long-term care distribution” as so much of the distributions made during the taxable year as does not exceed, in the aggregate, the least of the following: the amount paid by or assessed to the employee during the taxable year for, or with respect to, certified long-term care insurance for the employee or the employee’s spouse;<sup>1</sup> an amount equal to 10% of the present value of the vested accrued benefit of the employee under the plan; or \$2,600, as adjusted for inflation for 2026 (see section 401(a)(39)(B)(ii)).<sup>2</sup>

Section 401(a)(39)(C) defines the term “certified long-term care insurance” as a qualified long-term care insurance contract (as defined in section 7702B(b)) covering qualified long-term care services (as defined in section 7702B(c)); coverage of the risk that an insured individual would become a chronically ill individual (within the meaning of section 101(g)(4)(B)) under a rider or other provision of a life insurance contract that satisfies the requirements of section 101(g)(3);<sup>3</sup> or coverage of qualified long-term care

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<sup>1</sup> By regulation, the Secretary can permit other family members of the employee to be eligible for coverage of certified long-term care insurance.

<sup>2</sup> Section 401(a)(39)(B)(ii) provides that, in the case of taxable years beginning after December 31, 2024, the \$2,500 amount will be increased by an amount equal to \$2,500, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2023” for “calendar year 2016” in section 1(f)(3)(A)(ii). If any increase is not a multiple of \$100, the amount will be rounded to the nearest multiple of \$100.

<sup>3</sup> When determining the requirements of section 101(g)(3), section 401(a)(39)(C)(ii) provides that section 101(g)(3)(D) (relating to the limitation on the exclusion of periodic payments) does not apply.

services under a rider or other provision of an insurance or annuity contract that is treated as a separate contract under section 7702B(e) and satisfies the requirements of section 7702B(g). For any one of these options, section 401(a)(39)(C) further provides that the coverage must provide “meaningful financial assistance” in the event the insured needs home-based or nursing home care.<sup>4</sup>

Section 401(a)(39)(D) provides that rules similar to the rules of section 402(l)(3) will apply for purposes of section 401(a)(39). Section 402(l)(3) provides that an amount will be treated as a distribution for purposes of section 402(l)(1) only to the extent that the amount would be includible in gross income without regard to section 402(l)(1).<sup>5</sup>

Section 401(a)(39)(E)(i) provides that no distribution will be treated as a qualified long-term care distribution unless a long-term care premium statement with respect to the employee has been filed with the plan. Section 401(a)(39)(E)(ii) defines a long-term care premium statement as a statement provided by the issuer of long-term care coverage, upon request of the coverage owner, that contains certain specified information, such as the identities of the issuer and the employee owning the coverage, as well as such other information as the Secretary may require. Section 401(a)(39)(E)(iii) requires that, in order for a long-term care premium statement to be accepted by a plan, the issuer must complete a disclosure to the Secretary for the specific coverage product to which the long-term care premium statement relates

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<sup>4</sup> Section 401(a)(39)(C) states that coverage does not provide meaningful financial assistance unless benefits are adjusted for inflation and consumer protections are provided, including protection in the event the coverage is terminated.

<sup>5</sup> Section 402(l)(1) generally provides a limited exclusion from gross income for distributions from an eligible employer plan that is a governmental plan (as defined in § 414(d)) that are paid directly to an accident or health plan or a qualified long-term care insurance contract for health or long-term care insurance premiums of an eligible retired public safety officer, his or her spouse, or his or her dependents.

(Issuer Disclosure). The Issuer Disclosure must identify the issuer, the type of coverage, and any other information as the Secretary may require that is included in the filing of the coverage product with the applicable State authority.

Section 334(b) of the SECURE 2.0 Act made several conforming amendments to the Code to apply the rules in section 401(a)(39) to other types of defined contribution plans. As amended, section 403(a)(6) provides that an annuity contract will not fail to be subject to section 403(a) solely by reason of allowing distributions to which section 401(a)(39) applies. Qualified long-term care distributions are also treated as permitted distributions under amended sections 401(k)(2)(B)(i)(VII), 403(a)(6), 403(b)(7)(A)(i)(VII), 403(b)(11)(E), and 457(d)(1)(A)(v).

## *2. Exception to the 10% Additional Tax under Section 72(t)(2)(N)*

Section 72(t)(1) generally imposes a 10% additional tax on a distribution from a qualified retirement plan<sup>6</sup> unless the distribution qualifies for one of the exceptions to the 10% additional tax listed in section 72(t)(2). Section 334(c) of the SECURE 2.0 Act added section 72(t)(2)(N), which generally provides that the 10% additional tax on early distributions does not apply to qualified long-term care distributions described in section 401(a)(39).<sup>7</sup> Although the 10% additional tax does not apply, a qualified long-term care distribution is generally includible in gross income. Section 72(t)(2)(N)(iii)

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<sup>6</sup> For purposes of section 72(t), the term “qualified retirement plan,” as defined in section 4974(c), means a plan described in section 401(a) that includes a trust exempt from tax under section 501(a), an annuity plan described in section 403(a), an annuity contract described in section 403(b), an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b). Note that an IRA, which includes an individual retirement account described in section 408(a) and an individual retirement annuity described in section 408(b), is not a plan eligible to make qualified long-term care distributions under section 401(a)(39).

<sup>7</sup> If a qualified long-term care distribution relates to coverage for a spouse, and the employee and the employee’s spouse file separate returns, the exception to the 10% additional tax under section 72(t)(2)(N) does not apply. See section 72(t)(2)(N)(ii).

provides that qualified long-term care distributions are not treated as eligible rollover distributions for purposes of sections 401(a)(31), 402(f), and 3405.

### *3. Reporting Requirements under Section 6050Z*

Section 334(d) of the SECURE 2.0 Act added section 6050Z, which contains reporting requirements relating to qualified long-term care distributions.

Section 6050Z(a) provides that any issuer of certified long-term care insurance that provides a long-term care premium statement with respect to any purchaser pursuant to section 401(a)(39)(E) for a calendar year must make a return according to forms or regulations prescribed by the Secretary. The return must be made no later than February 1 of the succeeding calendar year and set forth the following with respect to each purchaser:

- Name and taxpayer identification number of the issuer,
- Statement that the coverage is for certified long-term care insurance (as defined in section 401(a)(39)(C)),
- Name of the owner of the coverage,
- Identification of the individual covered and the individual's relationship to the owner,
- Premiums paid for the coverage for the calendar year, and
- Any other information that the Secretary may require.

Section 6050Z(b) provides that the issuer required to make a return under section 6050Z(a) must furnish a written statement to each individual whose name is required to be set forth on the return in section 6050Z(a). The written statement must be provided to the individual or individuals on or before January 31 of the year following the

calendar year for which the return in section 6050Z(a) was required to be made. The written statement must include the name, address, and phone number of the issuer of the contract or coverage, and the aggregate amount of premiums and charges paid under the contract or coverage covering the insured individual during the calendar year.

Section 6050Z(c) provides that, in the case of contracts or coverage covering more than one insured, the return and statement required by section 6050Z(a) and (b) should identify only the portion of the premium that is properly allocable to the insured in respect of whom the return or the statement is made.

Section 6050Z(d) provides that, if any individual to whom a return is required to be furnished under section 6050Z(b) requests that such a return be furnished at any time before the close of the calendar year, the person required to make the return under section 6050Z(b) (that is, the issuer of the certified long-term care insurance) must comply with the request and must furnish to the Secretary at such time a copy of the return so provided.

### **III. GUIDANCE ON SECTION 334 OF THE SECURE 2.0 ACT RELATING TO QUALIFIED LONG-TERM CARE DISTRIBUTIONS**

#### **Questions and Answers Relating to Issuers of Certified Long-Term Care Insurance**

##### *Issuer Disclosure*

Q. A-1: What must be included in the disclosure to the Secretary, as required in section 401(a)(39)(E)(iii)?

A. A-1: Section 401(a)(39)(E)(iii) provides that a long-term care premium statement will be accepted only if an Issuer Disclosure has been filed with the Secretary for the specific coverage product to which the statement relates. For purposes of this

notice, the Issuer Disclosure must be filed with the IRS.<sup>8</sup> The Issuer Disclosure must identify the issuer, type of coverage, and such other information as the Secretary may require that is included in the filing of the product with the applicable State authority.

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) recognize that there should be a balance between providing adequate disclosure to satisfy the applicable reporting requirement and minimizing the burdens for issuers that must file an Issuer Disclosure, especially since long-term care insurance generally is highly regulated by States. To satisfy the requirements of section 401(a)(39)(E)(iii), an issuer must submit an Issuer Disclosure to the IRS, for each type of coverage. (in accordance with the submission procedures described in Q&A A-2 of this notice).

The Issuer Disclosure must include the following information:

1. Contact information for the issuer, including the name, address, and taxpayer identification number. The issuer's contact information must also include the name and telephone number of a person to contact at the issuer.
2. A general description of the type of long-term care coverage provided.
3. A statement that the coverage offered is certified long-term care insurance (as defined in section 401(a)(39)(C)).
4. A statement that the coverage offered has been filed with and approved by a State regulatory authority, including the identity of the State regulatory authority that approved the coverage.

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<sup>8</sup> Section 7701(a)(11)(B) provides that the term "Secretary" means the Secretary of the Treasury or his delegate. Section 7701(a)(12)(A)(i) defines delegate to include any agency of the Treasury Department, which includes the IRS.

5. The following penalties of perjury declaration that is signed by the issuer:  
**“Under penalties of perjury, I declare that I have examined this disclosure to the IRS, and, to the best of my knowledge and belief, the facts presented in this disclosure are true, correct, and complete.”**

Additional information on the content requirements for the Issuer Disclosure, including any future updates to the content requirements, will be posted on the IRS.gov website at <https://www.irs.gov/retirement-plans/issuer-disclosures-certified-long-term-care-insurance>.

Q. A-2: What are the procedures to submit an Issuer Disclosure to the IRS?

A. A-2: To satisfy the disclosure requirement in section 401(a)(39)(E)(iii), the issuer must submit an Issuer Disclosure that satisfies the requirements in Q&A A-1 of this notice to the IRS at the following fax number: (855) 224-1311 (toll-free number). On the cover sheet, please include the following language, “Issuer Disclosure to satisfy the reporting requirement in Code section 401(a)(39)(E)(iii).”

Once an Issuer Disclosure is received at the IRS, it will be reviewed for its completeness. If information is missing, the IRS will communicate by letter with the issuer’s contact person listed in the Issuer Disclosure to obtain the missing information. The issuer will have 21 calendar days from the date of this letter to provide the requested information. If the Issuer Disclosure is complete, the IRS will send the issuer an acknowledgment letter indicating that the Issuer Disclosure satisfied the requirements in section 401(a)(39)(E)(iii). The issuer should retain the letter acknowledging the IRS’s receipt of the Issuer Disclosure for its records. After receiving the acknowledgment letter, the issuer is then permitted to file a long-term care premium

statement with a plan administrator of a defined contribution plan upon the request of a participant in the defined contribution plan. If there are any changes to the information required to be provided in the Issuer Disclosure, as described in Q&A-1 of this notice, the issuer must file an updated Issuer Disclosure with the IRS, following the procedures in this Q&A-2.

Additional information on the procedures for submitting an Issuer Disclosure to the IRS, including any future updates to the Issuer Disclosure procedures, will be posted on the IRS.gov website at <https://www.irs.gov/retirement-plans-issuer-disclosures-certified-long-term-care-insurance>.

Q. A-3: When must an issuer submit an Issuer Disclosure to the IRS?

A. A-3: There is no general deadline for submitting an Issuer Disclosure to the IRS. However, an issuer must submit an Issuer Disclosure to the IRS and receive an acknowledgment letter before the issuer can file a long-term care premium statement with a defined contribution plan.

#### *Long-Term Care Premium Statement*

Q. A-4: What is a “long-term care premium statement”?

A. A-4: A “long-term care premium statement” is a statement provided by an issuer to a defined contribution plan at the request of the owner of the coverage. Section 401(a)(39)(E)(i) provides that no distribution from a plan will be treated as a qualified long-term care distribution unless a long-term care premium statement with respect to the employee has been filed with the plan. The owner of the coverage will request, on a calendar year basis, that the issuer send a long-term care premium statement to the defined contribution plan.

Section 401(a)(39)(E)(ii) sets forth the information to be included in the long-term care premium statement. In addition to certain specified information, section 401(a)(39)(E)(ii)(VI) provides that a long-term care premium statement should also include any other information as the Secretary may require.

Q. A-5: What must an issuer include in a long-term care premium statement that will be filed with a defined contribution plan?

A. A-5: In order to satisfy the requirements in section 401(a)(39)(E)(ii), a long-term care premium statement must include the following information:

1. Name and taxpayer identification number of the issuer.
2. Statement that the coverage is certified long-term care insurance (as defined in section 401(a)(39)(C).
3. Identification of the employee as the owner of the coverage.
4. Identification of the individual covered and the individual's relationship to the employee.
5. Premiums owed for the coverage for the calendar year.
6. Pursuant to section 401(a)(39)(E)(ii)(VI), a statement that the issuer has satisfied the Issuer Disclosure requirement in section 401(a)(39)(E)(iii) and Q&As A-1 through A-3 of this notice (including any updates posted on the IRS.gov website at <https://www.irs.gov/retirement-plans-issuer-disclosures-certified-long-term-care-insurance>).

Q. A-6: Where should an issuer file a long-term care premium statement?

A. A-6: If an employee requests from an issuer a long-term care premium statement for the purpose of obtaining a qualified long-term care distribution, the issuer

will file the long-term care premium statement with the applicable defined contribution plan identified by the employee. An issuer may ask the employee for various information needed to provide the statement, including the name and current mailing address of the applicable defined contribution plan, the name and contact information of the plan administrator, whether the applicable defined contribution plan offers qualified long-term care distributions as a distribution option, the employee's name and contact information, and, if the employee is not the covered individual, the name of the covered individual and his or her relationship to the employee. An issuer is permitted to rely on such information provided by the employee.

*Return & Reporting - Form 1099-LPS*

Q. A-7: Are issuers of long-term care premiums statements required to report premiums paid to the IRS?

A. A-7: Yes. Pursuant to section 6050Z(a), any issuer of certified long-term care insurance that files a long-term care premium statement with an applicable defined contribution plan for a calendar year must make a return to the IRS using Form 1099-LPS, *Long-Term Care Premiums Paid Statement*, on which the issuer will report the long-term care premiums paid for the calendar year. Form 1099-LPS must be filed with the IRS no later than February 1 of the calendar year following the calendar year the long-term care premium statement was filed with the plan. For example, in May 2027, Issuer A files a qualified long-term care premium statement with Employee C's section 401(k) plan. Issuer A is required to file Form 1099-LPS with the IRS no later than February 1, 2028.

Q. A-8: Are issuers of long-term care premium statements required to do any other reporting under section 6050Z?

A. A-8: Yes. Pursuant to section 6050Z(b), an issuer that is required to make a return under section 6050Z(a) must also furnish a written statement to each individual whose name is required to be set forth on the Form 1099-LPS. Thus, the issuer will be required to furnish a written statement to the employee (and another written statement to the insured if the insured is not the employee).

The written statement must be provided to the individual (or individuals) on or before January 31 of the year in which the Form 1099-LPS is required to be filed with the IRS. Using the same facts in the example in Q&A A-7 of this notice, in May 2027, Issuer A files a long-term care premium statement with Employee C's section 401(k) plan. Issuer A filed Form 1099-LPS with the IRS no later than February 1, 2028. Employee C was listed on that Form 1099-LPS. Thus, Issuer A will need to send Copy B of the Form 1099-LPS to Employee C no later than January 31, 2028.

Q. A-9: What are the special reporting rules that apply in the case of contracts or coverage covering more than one insured?

A. A-9: In the case of contracts or coverage covering more than one insured, each return required by section 6050Z(a) (that is, Form 1099-LPS) and each statement required by section 6050Z(b) should identify only the portion of the premium that is properly allocable to the insured.

Q. A-10: How can an issuer satisfy the reporting requirement in section 6050Z(d)?

A. A-10: Section 6050Z(d) provides that, if any individual to whom a return is required to be furnished under section 6050Z(b) requests that such a return be furnished at any time before the close of the calendar year, the person required to make the return under section 6050Z(b) must comply with such request and must furnish to the Secretary at such time a copy of the return so provided.

Except as provided in Q&A A-11 of this notice, if an individual requests a Form 1099-LPS before the close of the calendar year, then, to comply with the requirements in this Q&A A-10 and section 6050Z(d), the issuer must furnish the Form 1099-LPS to the individual within a reasonable period of time after the request is made. At the same time, the issuer must also furnish to the IRS a copy of the Form 1099-LPS provided to the individual. However, the issuer will still be required to satisfy the reporting requirements in section 6050Z(a) and (b) for the calendar year for which the return is required to be made.

Q. A-11: In lieu of satisfying the reporting requirements in Q&A A-10 of this notice, is there an alternative way an issuer can satisfy the reporting requirements in section 6050Z(d)?

A. A-11: Yes. Notwithstanding Q&A A-10 of this notice, if an issuer satisfies the requirements in this Q&A A-11, the issuer will be treated as satisfying the requirements in section 6050Z(d). An issuer will satisfy the requirements of this Q&A A-11 if the issuer provides the individual requesting a return before the close of the calendar year with the name, address, and phone number of the contact person for the issuer of the contract or coverage, as well as providing the aggregate amount of premiums and charges paid under the contract covering the insured as of the date of the request. This information

can be provided to the individual either on an updated copy of the long-term care premium statement or another statement from the issuer, such as an account statement or a bill. If the issuer satisfies the requirements in this Q&A A-11, the issuer will be treated as providing both the individual and the IRS the return required in section 6050Z(d). However, the issuer will still be required to satisfy the reporting requirements in section 6050Z(a) and (b) for the calendar year for which the return is required to be made.

### **Questions and Answers Relating to Plan Administrators Making and Individuals Receiving Qualified Long-Term Care Distributions**

Q. B-1: Is a defined contribution plan required to permit qualified long-term care distributions under section 401(a)(39)?

A. B-1: No. It is optional for a defined contribution plan to permit qualified long-term care distributions pursuant to section 401(a)(39). Plan amendments adopted to permit qualified long-term care distributions are discretionary amendments for purposes of the plan amendment rules.

Q. B-2: What is the deadline for adopting plan amendments to permit qualified long-term care distributions?

A. B-2: The deadline to amend a defined contribution plan that is not a governmental plan, a section 403(b) plan maintained by a public school, or an applicable collectively bargained plan, to permit qualified long-term care distributions, is December 31, 2027.<sup>9</sup> The deadline to amend a defined contribution plan that is an

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<sup>9</sup> Q&A J-1 of Notice 2024-02, 2024-2 IRB 316, sets forth the general deadlines for a plan sponsor to amend its eligible retirement plan for required and discretionary amendments to reflect the SECURE 2.0 Act. This notice extends the deadline for a plan sponsor of a defined contribution plan that is not a governmental plan, a section 403(b) plan maintained by a public school, or an applicable collectively bargained plan, to amend its plan to permit qualified long-term care distributions from December 31,

applicable collectively bargained plan, to permit qualified long-term care distributions, is December 31, 2028. The deadline to amend a defined contribution plan that is a or governmental plan, to permit qualified long-term care distributions, is December 31, 2029.

Q. B-3: What is a qualified long-term care distribution?

A. B-3: A qualified long-term care distribution is a distribution made during the taxable year that does not exceed, in the aggregate, the *least* of any of the following:

1. The amount paid by or assessed to the employee during the taxable year for, or with respect to, certified long-term care insurance for the employee or the employee's spouse.

2. An amount equal to 10% of the present value of the vested accrued benefit of the employee under the plan.

3. \$2,600 (as adjusted for inflation for 2026).<sup>10</sup>

No distribution will be treated as a qualified long-term care distribution unless a long-term care premium statement with respect to the employee has been filed with the plan. The long-term care premium statement is considered supporting documentation for the employee's request for a qualified long-term care distribution.

Q. B-4: Do qualified long-term care distributions from a defined contribution plan satisfy the distribution requirements in sections 401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(a)(6), 403(b)(11), and 457(d)(1)(A)?

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2026, to December 31, 2027. The deadlines to amend defined contribution plans that are applicable collectively bargained plans or governmental plans remain as provided in Notice 2024-02.

<sup>10</sup> For an explanation of the adjustment for inflation, see footnote 2 of this notice.

A. B-4: Yes. Qualified long-term care distributions satisfy the distribution requirements for qualified cash or deferred arrangements under section 401(k)(2)(B)(i)(VII), annuity contracts under section 403(a)(6), custodial accounts under section 403(b)(7)(A)(i)(VII), annuity contracts under section 403(b)(11)(E), and eligible governmental deferred compensation plans under section 457(d)(1)(A)(v). Thus, for example, an employer may expand the distribution options under its section 401(k) plan to allow an amount attributable to elective, qualified nonelective, qualified matching, or safe harbor contributions to be distributed as a qualified long-term care distribution.

Q. B-5: Does an individual have an extended 3-year repayment period to repay a qualified long-term care distribution to a retirement plan?

A. B-5: No. Unlike certain section 72(t) permitted distributions, which can be repaid within a 3-year period beginning on the day after the date on which the distribution was received,<sup>11</sup> neither section 72(t)(2)(N) nor section 401(a)(39) provides that an amount distributed pursuant to section 401(a)(39) may be repaid to a retirement plan within such a 3-year period. Thus, a qualified long-term care distribution is not eligible for extended 3-year repayment to a retirement plan.

Q. B-6: Is a qualified long-term care distribution treated as an eligible rollover distribution for purposes of the direct rollover rules, section 402(f) notice requirements, and the mandatory withholding rules?

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<sup>11</sup> Certain section 72(t) permitted distributions are permitted to be repaid to an eligible retirement plan within this 3-year period. See, e.g., section 72(t)(2)(H)(v)(I) (qualified birth or adoption distributions), section 72(t)(2)(I)(vi) (emergency personal expense distributions), and section 72(t)(2)(K)(v) (domestic abuse victim distributions).

A. B-6: No. A qualified long-term care distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules under section 401(a)(31), the notice requirement under section 402(f), and the mandatory withholding rules under section 3405. See generally section 72(t)(2)(N)(iii).

Thus, a defined contribution plan is not required to offer an individual a direct rollover with respect to a qualified long-term care distribution. In addition, a plan administrator is not required to provide a section 402(f) notice. Finally, the plan administrator or payor of the qualified long-term care distribution is not required to withhold an amount equal to 20% of the distribution, as generally is required under section 3405(c)(1). However, a qualified long-term care distribution is subject to the withholding requirements of section 3405(b) and § 35.3405-1T of the withholding tax regulations.

Q. B-7: Is the plan administrator of a defined contribution plan permitted to rely on an issuer's statement in the long-term care premium statement that an Issuer Disclosure satisfying the requirements of section 401(a)(39)(E)(iii) and Q&As A-1 through A-3 of this notice has been made to the IRS?

A. B-7: Yes. In determining whether an employee is eligible for a qualified long-term care distribution, the plan administrator of an applicable eligible retirement plan is permitted to rely on the issuer's statement in the long-term care premium statement that an Issuer Disclosure has been made to the IRS that satisfies the requirements of section 401(a)(39)(E)(iii) and Q&As A-1 through A-3 of this notice (including any updates posted on the IRS.gov website at <https://www.irs.gov/retirement-plans-issuer-disclosures-certified-long-term-care-insurance>).

Q. B-8: Is the plan administrator of a defined contribution plan permitted to rely on an issuer's statement in the long-term care premium statement that the insurance coverage is certified long-term care insurance, as defined in section 401(a)(39)(C)?

A. B-8: Yes. In determining whether an employee is eligible for a qualified long-term care distribution, the plan administrator of a defined contribution plan is permitted to rely on the issuer's statement in the long-term care premium statement that the coverage for the employee or the employee's spouse is for certified long-term care insurance.

Q. B-9: Is the plan administrator of a defined contribution plan permitted to rely on the information provided on the long-term care premium statement in making a qualified long-term care distribution?

A. B-9: Yes. The plan administrator of a defined contribution plan is permitted to rely on the information provided on the long-term care premium statement filed with the plan in making a qualified long-term care distribution to an employee. For example, in making a qualified long-term care distribution, the plan administrator of a defined contribution plan is permitted to rely on the statement made by the issuer as to the amount of the premiums owed for the coverage in the calendar year.

Q. B-10: What are the reporting requirements for a payor of a defined contribution plan making a qualified long-term care distribution?

A. B-10: The payment of a qualified long-term care distribution to an employee must be reported by the payor on Form 1099-R, *Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

Q. B-11: If a defined contribution plan does not permit qualified long-term care distributions, may an employee treat an otherwise permissible distribution as a qualified long-term care distribution?

A. B-11: No. As stated in Q&A B-1, a defined contribution is not required to permit qualified long-term care distributions. If a defined contribution plan does not permit qualified long-term care distributions, then the exception to the 10% additional tax for qualified long-term care distributions will not apply to an employee's distribution from a defined contribution plan, even if that distribution is used to pay for long-term care insurance.<sup>12</sup>

#### **IV. PAPERWORK REDUCTION ACT**

The collection of information contained in this notice has been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3507) under control number 1545-2317 for qualified long-term care distributions, control number 1545-NEW for the reporting requirements under Form 1099-LPS, and control number 1545-0119 for the reporting requirements under Form 1099-R. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. The collections of information in this notice are in Q&As A-1 through A-6 of this notice. The information collection requirements in Q&As A-1 through

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<sup>12</sup> Previous guidance has provided that individuals may treat certain other types of permissible distributions (for example, a hardship distribution) as a section 72(t) permitted distribution for purposes of the exception to the 10% additional tax if that individual otherwise meets the requirements of the section 72(t) permitted distribution even though the plan does not permit them. See, e.g., Notices 2024-02 and 2024-55, 2024-38 IRB 31. However, that same treatment is not available for qualified long-term care distributions because a plan that does not permit qualified long-term care distributions would not accept a long-term care premium statement from the issuer. Thus, the requirement under 401(a)(39)(E)(i) that a long-term care premium statement with respect to the employee be filed with the plan would not be met.

A-6 of this notice will be submitted to OMB for review and approval in accordance with 5 CFR 1320.10. The collection of information in Q&As A-7 through A-11 of this notice will be addressed in connection with the Form 1099-LPS under the control number 1545-NEW.

Pursuant to section 72(t)(2)(N), the 10% additional tax on early distributions does not apply to qualified long-term care distributions described in section 401(a)(39). As required by section 401(a)(39)(E)(iii), Q&As A-1 through A-3 of this notice set forth the requirements of the Issuer Disclosure to be filed with the Secretary for the specific coverage product to which the long-term care premium statement relates. Q&A A-4 through A-6 of this notice provides guidance on the long-term care premium statement, including what an issuer must include in the long-term care premium statement and the procedures for filing a long-term care premium statement with an applicable defined contribution plan identified by the employee requesting qualified long-term care distributions.

Section 334 of the SECURE 2.0 Act is effective for distributions made after December 29, 2025. The IRS does not have all the data necessary for determining paperwork for qualified long-term care distributions. At this point, the IRS does not know how many defined contribution plans will permit these distributions or how many employees will request qualified long-term care distributions. Therefore, the paperwork burden is based on an estimated range of the number of employees who would apply for a qualified long-term care distribution from a defined contribution plan that would permit such distributions.

The collection of information in Q&As A-1 through A-6 is required to obtain a benefit. The likely respondent is an issuer of certified long-term care insurance that will file a long-term care premium statement with an applicable defined contribution plan.

Estimated total annual reporting burden: 225 to 450 hours.

Estimated average annual burden per respondent: 3 hours.

Estimated number of respondents: 75 to 150 respondents.

Estimated frequency of responses: 1 per request for a long-term care premium statement from a policyholder to be filed with a defined contribution plan for the payment of qualified long-term care distributions.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

## **V. EFFECT ON OTHER DOCUMENTS**

Q&A J-1 of Notice 2024-02 is modified by extending the deadline for a plan sponsor of a defined contribution plan that is not a governmental plan, a section 403(b) plan maintained by a public school, or an applicable collectively bargained plan, to amend its eligible retirement plan to permit qualified long-term care distributions to December 31, 2027.

## **VI. DRAFTING INFORMATION**

The principal authors of this notice are Pamela R. Kinard and Naomi Lehr of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and

Employment Taxes). For further information regarding this notice, please contact Ms. Naomi Lehr at (202) 317-4102, or Ms. Pamela Kinard at (202) 317-6000 (not toll-free numbers).