



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear \_\_\_\_\_ :

This letter responds to your request for information about the consequences of a Roth IRA beneficiary's failure to timely begin taking minimum required distributions under the "life expectancy rule" of section 401(a)(9) of the Internal Revenue Code (Code). In particular, you asked whether a non-spouse beneficiary's failure to begin such distributions within one year of the Roth IRA owner's death makes the life expectancy rule inapplicable and requires that distributions be made under the "five year rule" described in section 401(a)(9).

Post-death distributions from a Roth IRA to a designated beneficiary generally must be made in accordance with the required minimum distribution rules under section 401(a)(9)(B) as if the Roth IRA owner died before his or her required beginning date. Under these rules, if an employee dies before the employee's required beginning date, distribution of the employee's entire interest must be made either (1) in full within 5 years of the employee's death (the 5-year rule), or (2) over a period not extending beyond the beneficiary's life expectancy, beginning within one year of the employee's death (the life expectancy rule). Special rules apply if the beneficiary is the employee's spouse.

Whether the life expectancy rule or the 5-year rule applies in a particular situation is governed by § 1.401(a)(9)-3, Q&A 4 of the Treasury regulations. The regulations provide that if there is a designated beneficiary, distributions are to be made in accordance with the life expectancy rule, unless the terms of the plan either (a) require that distributions be made under the 5-year rule, or (b) permit the beneficiary to elect to use the 5 year rule. If the plan permits such elections by the beneficiary, the life expectancy rule will apply unless the beneficiary makes such election within a specific time period, or the plan provides that distributions will be made under the 5-year rule if

no such election is made. The determination of which distribution period applies is made in accordance with these rules, and is not based on whether distributions in fact begin timely under the applicable rule.

Section 4974 of the Code imposes a 50% excise tax on any amounts that were required to be distributed under section 401(a)(9) but were not timely distributed, unless the imposition of such tax is waived. Publication 590-B provides that a taxpayer may request a waiver of the excise tax by attaching a statement of explanation and completing Form 5329 as instructed under *Waiver of tax* in the Instructions for Form 5329.

I hope this general information is helpful. If you have any other questions about this letter, please contact \_\_\_\_\_ at \_\_\_\_\_.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2016-1, § 2.04, 2016-1 IRB 1 (Jan. 4, 2016).

Sincerely,

Joyce I. Kahn  
Acting Branch Chief, Qualified Plans Branch 4  
(Employee Benefits)  
(Tax Exempt & Government Entities)