



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Tom Udall
United States Senator
400 Gold Avenue SW, Suite 300
Albuquerque, NM 87102

Attention:

Dear Senator Udall:

I am responding to your email inquiry dated February 21, 2018, on behalf of your constituent, . had concerns regarding application of the rules of his retirement plan, specifically the required minimum distribution (RMD) rules under Section 401(a)(9) of the Internal Revenue Code.

Overview of RMDs

Section 401(a)(9) requires a qualified plan to distribute RMDs over the life of an employee beginning no later than the required beginning date, according to a schedule based on an employee's life expectancy. Generally, the required beginning date for RMDs is April 1 of the calendar year following the later of:

- 1) The calendar year in which the employee reaches age 70½ or
- 2) The calendar year in which the employee retires.

If an employee is a 5-percent owner of the employer, the employee must begin taking RMDs no later than April 1 of the calendar year following the calendar year in which the employee reaches 70½, even if that employee continues to work for the employer.

The statutory required beginning date is the latest date by which distributions must commence, and the RMD rules generally provide the minimum rate at which distributions must be distributed. Subject to other rules about distributions and distribution elections for qualified plans under Section 401(a), a plan can begin

distributions before the required beginning date and can distribute amounts more rapidly than required by the RMD rules. For example, a plan may require all employees (regardless of whether these employees are 5-percent owners) to begin taking RMDs no later than April 1 of the calendar year following the calendar year in which the employee reaches 70½, even if that employee has not yet retired.

Adjustment for Future Accruals and Payment of RMDs

Generally, if distributions to an employee begin under a defined benefit plan and the distribution is paid in the form of a life annuity, that employee will continue to receive the same annuity payment for the remainder of the employee's life (subject to certain adjustments such as cost-of-living increases and also subject to certain additional rules in the case of married participants, depending on the spousal annuity election).

If an employee earns additional benefit accruals after distributions begin, the life annuity amount is recalculated. This recalculation will consider not only the additional benefits accrued by the employee, but also the fact that some distributions have already been paid to the employee. Nevertheless, the life annuity amounts will not be less than the life annuity amounts calculated before the additional service. In addition, if the annuity elected at retirement includes a survivor annuity for the spouse upon the death of the employee, this survivor annuity can be taken into account so that the amount of the annuity payment to the employee after retirement is less than if an annuity was only paid for the life of the employee.

I hope this information is helpful. If you need further assistance please contact
at .

Sincerely,

Neil Sandhu
Senior Technician Reviewer
Qualified Plans Branch 1
Office of the Associate Chief Counsel
(Tax Exempt and Government Entities)