

**MEMO# 13047**

January 17, 2001

# **IRS RELEASES SIMPLIFIED MINIMUM REQUIRED DISTRIBUTION PROPOSED REGULATIONS**

[13047] January 17, 2001 TO: PENSION MEMBERS No. 2-01 PENSION OPERATIONS  
ADVISORY COMMITTEE No. 3-01 TRANSFER AGENT ADVISORY COMMITTEE No. 4-01 RE: IRS  
RELEASES SIMPLIFIED MINIMUM REQUIRED DISTRIBUTION PROPOSED REGULATIONS The  
Internal Revenue Service recently released proposed regulations that substantially simplify  
the calculation of minimum required distributions ("MRDs") from qualified plans, IRAs and  
other related savings vehicles in REG-130477 and REG-130481-00.1 The regulations are  
proposed to be effective for determining MRDs for calendar years beginning on or after  
January 1, 2002. For determining MRDs from IRAs and qualified plans for calendar year  
2001, taxpayers may rely on the new proposed regulations or the 1987 proposed  
regulations. To the extent the final regulations are more restrictive, they will be issued  
without retroactive effect. In addition, the IRS announced that a public hearing has been  
scheduled on the proposed regulations on June 1, 2002. Requests to speak at the hearing  
and outlines of the topics to be discussed are due to the IRS by May 11, 2001. Written and  
electronic comments on the proposed regulations are due to the IRS by April 19, 2001. The  
IRS's proposed regulations are similar to the proposal developed by the Institute in  
conjunction with its member companies last year to simplify the MRD rules -- that is, the  
use of a simple, uniform table for taxpayers to use to determine their current year MRD.  
According to the IRS, the proposed regulations would reduce the amount of MRDs for most  
taxpayers. The proposed regulations are in a Q&A format and generally simplify the current  
MRD rules by: • Providing a simple uniform table that all taxpayers can use to determine  
the MRDs required during their lifetime; • Eliminating the requirement that taxpayers  
determine their beneficiary by their required beginning date; • Eliminating the need for  
taxpayers to decide whether or not to recalculate life expectancy each year; • Eliminating  
the requirement to satisfy a separate incidental death benefit rule; 1 The proposed  
regulations state that proposed rules similar to these proposed regulations will be published  
in the near future applicable to distribution requirements under section 457(d). 2•  
Permitting the MRD during the taxpayer's lifetime to be calculated without regard to the  
beneficiary's age (except in cases where the MRD can be reduced by taking into account of  
the age of a beneficiary who is a spouse more than 10 years younger than the taxpayer); •  
Permitting the beneficiary to be determined as late as the end of the year following the  
year of the taxpayer's death; and • Permitting the calculation of post-death minimum  
distributions to take into account a taxpayer's remaining life expectancy at the time of  
death, thus allowing distributions in all cases to be spread over a number of years after  
death. One major reporting change contemplated by the proposed regulations is a  
requirement that IRA trustees calculate and report to the taxpayer and IRS both the value

of the account balance as of the end of the year and the following year's MRD for each IRA. Note that this requirement would apply regardless of whether the taxpayer plans to take the MRD from that IRA or another IRA.

### Uniform Distribution Period

The proposed regulations provide a uniform distribution period for all taxpayers the same age. The uniform distribution period table is the required minimum distribution incidental benefit ("MDIB") divisor table originally found in 1.401(a)(9)-2 of the 1987 proposed regulations, and now included in A-4 of 1.401(a)(5) of the new proposed regulations. Basically, the table permits MRDs to be taken over a 26 year period. An exception applies if the employee's sole beneficiary is the taxpayer's spouse and the spouse is more than 10 years younger than the taxpayer. In that case, the taxpayer may use the longer distribution period measured by the joint life and last survivor life expectancy of the employee and spouse. The proposed regulations facilitate the calculation of the annual MRD based on the taxpayer's current age and current account balance as of the end of the prior year. For example, to calculate his MRD, a 71 year old taxpayer would go to the table, look up his age, 71, then divide his applicable account balance by 25.3 years, the period assigned by the table. Following the taxpayer's death, the distribution period is generally the remaining life expectancy of the designated beneficiary. The beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the taxpayer's death, reduced by one for each subsequent year. If the taxpayer's spouse is the sole beneficiary at the end of the year following the year of death, the distribution period during the spouse's life is the spouse's single life expectancy. After the year of the spouse's death, the distribution period is the spouse's life expectancy calculated in the year of death, reduced by one for each subsequent year. If there is no designated beneficiary as of the end of the year following the taxpayer's death, the distribution period is the taxpayer's life expectancy calculated in the year of death, reduced by one for each subsequent year. The proposed regulations, therefore, eliminate the need to fix the amount of distribution during the taxpayer's lifetime based on the beneficiary designated on the required beginning date and eliminate the need to elect recalculation or no recalculation of life expectancies at the required beginning date. The IRS has elected not to revise the life expectancy table to reflect recent increases in longevity. Instead, the proposed regulations provide authority for the Commissioner to issue guidance revising the life expectancy tables and the uniform distribution table in the future if it becomes appropriate. The IRS notes that because the new proposed regulations lengthen the distribution period, there is less of a need to modify the existing life expectancy tables.

### Determination of the Designated Beneficiary

In general, the proposed regulations provide that the designated beneficiary is determined as of the end of the year following the year of the taxpayer's death rather than as of the taxpayer's required beginning date or date of death. Any beneficiary eliminated by distribution of the benefit or through disclaimer during the period between the taxpayer's death and the end of the year following the year of death is disregarded in determining the taxpayer's designated beneficiary for purposes of calculating MRDs. If, as of the end of the year following the year of the taxpayer's death, the taxpayer has more than one designated beneficiary and the account has not been divided into separate accounts or shares for each beneficiary, the beneficiary with the shortest life expectancy is the designated beneficiary. This approach is consistent with the 1987 proposed regulations. The approach simplifies the rules for MRDs in that the same rules apply regardless of whether the taxpayer dies before or after his required beginning date. In addition, the determination of the designated beneficiary and the calculation of the beneficiary's life expectancy are generally simultaneous with the payments of MRDs to the beneficiary. Finally, for a taxpayer that elects or defaults into recalculation of life expectancy and dies without a beneficiary, the proposed regulations eliminate the requirement that the taxpayer's entire remaining account balance be distributed in the year after the taxpayer's death and replaces it with a distribution period

equal to the taxpayer's remaining life expectancy recalculated immediately before death.

**Default Rule for Post-Death Distributions** The proposed regulations would change the default rule in the case of death before the taxpayer's required beginning date for a nonspouse designated beneficiary from the 5-year rule in 401(a)(9)(B)(ii) to the life expectancy rule in 401(a)(9)(B)(iii). As a result, assuming no plan provision or election into the 5-year rule, the life expectancy rule would apply in all cases where the taxpayer has a designated beneficiary. Similar to the case where the taxpayer dies on or after his required beginning date, the designated beneficiary whose life expectancy is used to determine the distribution period would be determined as of the end of the year following the year of the taxpayer's death, rather than as of the taxpayer's date of death. The 5-year rule would apply automatically only if the taxpayer did not have a designated beneficiary as of the end of the year following the year of the taxpayer's death. When a taxpayer dies before his required beginning date, the proposed regulations allow a waiver, unless the Commissioner determines otherwise, of any excise tax resulting from the life expectancy rule during the first 5 years after the taxpayer's death if the entire account is distributed by the end of the 5th year following the year of the taxpayer's death.

**Annuity Payments** The proposed regulations provide that the designated beneficiary for determining the distribution period for annuity payments generally is the beneficiary as of the annuity starting date, even if that date is after the required beginning date. The proposed regulations extend the rule in the 1987 proposed regulations that allows a life annuity with a period certain not exceeding 20 years to commence on the required beginning date with no makeup for the first 4 distribution calendar year, to all annuity stream payments. The permitted increase in annuity payments to a taxpayer upon the death of the survivor annuitant has been expanded to cover the elimination of the survivor portion of a joint and survivor annuity due to a qualified domestic relations order. In the case of an annuity contract purchased from an insurance company, an exception to the nonincreasing-payment requirement in these proposed regulations has been added to accommodate a cash refund upon the taxpayer's death of the amount of the premiums paid for the contract.

**Trust as Beneficiary** The proposed regulations retain the recently added provision allowing an underlying beneficiary of a trust to be a taxpayer's designated beneficiary for purposes of determining MRDs when the trust is named beneficiary of a plan or IRA, assuming certain requirements are met. One of the requirements is that documentation of the underlying beneficiaries must be provided in timely manner to the plan administrator. Because the designated beneficiary during a taxpayer's lifetime is not relevant for determining lifetime MRDs in most cases under the new regulations, the burden of "lifetime documentation," is significantly reduced. The proposed regulations also provide examples in which a testamentary trust is named as a taxpayer's beneficiary and the look-through trust rules apply. The examples also clarify that the remaindermen of a "QTIP" trust must be taken into account as beneficiaries in determining the distribution method for MRDs if amounts are accumulated for their benefit during the life of the income beneficiary under the trust.

**Rules for Qualified Domestic Relations Orders** The proposed regulations retain the basic rules in the 1987 proposed regulations. One change involves payments to alternate payees. If a QDRO divides the individual account of the taxpayer in a defined contribution plan into a separate account for the taxpayer and one for an alternate payee, the MRD to the alternate payee during the lifetime of the taxpayer must be determined using the same rules that apply to the distribution to the taxpayer. Thus, MRDs to the alternate payee must commence by the taxpayer's required beginning date. However, the MRD for the alternate payee will be separately determined. The MRD for the alternate payee during the lifetime of the taxpayer may be determined using either the uniform distribution period based on the age of the taxpayer in the distribution calendar year or, if the alternate payee is the taxpayer's former spouse and is more than 10 years younger than the taxpayer, using the joint life

expectancy of the taxpayer and the alternate payee. Election of Surviving Spouse to Treat an Inherited IRA as Spouse's Own IRA The proposed regulations clarify that election to treat an inherited IRA by the surviving spouse as the spouse's own is permitted to be made only after the distribution of the MRD from the account, if any, for the year of the individual's death. The proposed regulations further clarify that this deemed election is only permitted if the surviving spouse is the sole beneficiary of the account and had an unlimited right to withdrawal from the account. This requirement is not satisfied if a trust is named beneficiary of the IRA, even if the surviving spouse is the sole beneficiary of the trust. The IRS also clarifies that, except for the MRD for the year of the individual's death, the spouse is permitted to roll over the post-death MRD under 401(a)(9)(B) for a year if the spouse is establishing the IRA rollover account in the name of the spouse as IRA 5owner. However, if the spouse is 70 ½ or older, the minimum lifetime distribution required under 401(a)(9)(A) must be made for the year and, because it is a MRD, that amount cannot be rolled over. Also, the proposed regulations provide that this election by a surviving spouse may be accomplished by redesignating the IRA with the name of the surviving spouse as owner rather than beneficiary.

IRA Reporting of MRDs To improve compliance and further reduce burdens on IRA owners and beneficiaries, the proposed regulations would require IRA trustees to calculate the following year's MRD for each IRA. The IRS states that because the proposed regulations significantly simplify the calculation of MRDs from IRAs, IRA trustees determining the account balance as of the end of the year can also calculate the following year's MRD for each IRA. This reporting would be required regardless of whether the IRA owner is planning to take the MRD from that IRA or from another IRA and would indicate that the IRA owner is permitted to take the MRD from any other IRA of the owner. The IRS requests comments regarding the best form to accommodate this reporting requirement, recommendations regarding the timing of the reporting requirement (e.g., beginning of the calendar year for which the required amount is being calculated), and effective date issues.

Permitted Delays for QDROS and State Insurer Delinquency Proceedings The proposed regulations permit the MRD for a year to be delayed to a later year in certain circumstances. Delays are permitted up to 18 months during which an amount is segregated in connection with the review of a domestic relations order pursuant to 414(p)(17) and while annuity payments under an annuity contract issued by a life insurance company in state insurer delinquency proceedings have been reduced or suspended by reason of state proceedings.

Correction of Failures Under 401(a)(9) The proposed regulations do not set forth the special rule relieving a plan from disqualification for isolated instances of failure to satisfy 401(a)(9) because all failures for qualified plans and 403(b) accounts under 401(a)(9) are now permitted to be corrected through the Employee Plans Compliance Resolution System.

Amendments of Qualified Plans Although the effective date of the proposed regulations is January 1, 2002, plan sponsors may, but are not required to, implement the changes to the rules by adopting the model amendment set forth in the proposed regulations. Plan sponsors who adopt the model amendment will have reliance that, during the term of the amendment, operation of their plans in a manner that satisfies the MRD rules set forth in the proposed regulations will not cause their plans to fail to be qualified. The model amendment may be adopted by plan sponsors, practitioners who sponsor volume submitter specimen plans and sponsors of master and prototype plans.

6The IRS will not issue determination, opinion or advisory letters on the basis of changes in the proposed regulations until the publication of final regulations. The adoption of the model amendment will not affect a determination letter issued for a plan whose terms otherwise satisfy the 1987 proposed regulations and the changes under the Small Business Job Protection Act of 1996. Plan sponsors should not adopt other amendments to attempt to conform their plans to the changes in the proposed regulations before the publication of final regulations. A copy of the proposed regulations and notice of hearing is attached.

Kathryn A. Ricard Associate Counsel Attachment Note: Not all recipients receive the attachment. To obtain a copy of the attachment to which this memo refers, please call the ICI Library at (202) 326-8304 and request the attachment for memo 13047. ICI Members may retrieve this memo and its attachment from ICINet (<http://members.ici.org>). Attachment (in .pdf format)

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