

Internal Revenue Code Section 408A(d)(4)

Roth IRAs.

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(d) Distribution rules. For purposes of this title—

(1) Exclusion. Any qualified distribution from a Roth IRA shall not be includible in gross income.

(2) Qualified distribution. For purposes of this subsection—

(A) In general. The term "qualified distribution" means any payment or distribution--

(i) made on or after the date on which the individual attains age 59 1/2 ,

(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)),
or

(iv) which is a qualified special purpose distribution.

(B) Distributions within nonexclusion period. A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made within the 5-taxable year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual.

(C) Distributions of excess contributions and earnings. The term "qualified distribution" shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.

(3) Rollovers from an eligible retirement plan other than a Roth IRA.

(A) In general. Notwithstanding section sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16), in the case of any distribution to which this paragraph applies--

(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

(ii) section 72(t) shall not apply, and

(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

(B) Distributions to which paragraph applies. This paragraph shall apply to a distribution from an eligible retirement plan (as defined by section 402(c)(8)(B)) maintained for the benefit of an individual which is contributed to a Roth IRA maintained for the benefit of such individual in a qualified rollover contribution. This paragraph shall not apply to a distribution which is a qualified rollover contribution from a Roth IRA or a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A)[.]

(C) Conversions. The conversion of an individual retirement plan (other than a Roth IRA) to a Roth IRA shall be treated for purposes of this paragraph as a distribution to which this paragraph applies.

(D) Additional reporting requirements. Trustees of Roth IRAs, trustees of individual retirement plans, persons subject to section 6047(d)(1), or all of the foregoing persons, whichever is appropriate, shall include such additional information in reports required under section 408(i) or 6047 as the Secretary may require to ensure that amounts required to be included in gross income under subparagraph (A) are so included.

(E) Special rules for contributions to which 2-year averaging applies. In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

(i) Acceleration of inclusion.

(I) In general. The amount otherwise required to be included in gross income for any taxable year beginning in 2010 or the first taxable year in the 2-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

(II) Limitation on aggregate amount included. The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 2-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

(ii) Death of distributee.

(I) In general. If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

(II) Special rule for surviving spouse. If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date for the spouse's taxable year which includes the date of death.

(F) Special rule for applying section 72.


(i) In general. If--

(I) any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in this paragraph; and

(II) such distribution is made within the 5-taxable year period beginning with the taxable year in which such contribution was made,

then section 72(t) shall be applied as if such portion were includible in gross income.

(ii) Limitation. Clause (i) shall apply only to the extent of the amount of the qualified rollover contribution includible in gross income under subparagraph (A)(i).

 (4) Aggregation and ordering rules.

(A) Aggregation rules. Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

(B) Ordering rules. For purposes of applying this section and section 72 to any distribution from a Roth IRA, such distribution shall be treated as made—

(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA; and

(ii) from such contributions in the following order:

(I) Contributions other than qualified rollover contributions to which paragraph (3) applies.

(II) Qualified rollover contributions to which paragraph (3) applies on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under clause (ii)(II) shall be allocated first to the portion of such contribution required to be included in gross income.

(5) Qualified special purpose distribution. For purposes of this section, the term "qualified special purpose distribution" means any distribution to which subparagraph (F) of section 72(t)(2) applies.

(6) Taxpayer may make adjustments before due date.

(A) In general. Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter [*IRC Sections 1 et seq.*], such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

(B) Special rules.

(i) Transfer of earnings. Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

(ii) No deduction. Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.

(7) Due date. For purposes of this subsection, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer's return for such taxable year.

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