Determination of Substantially Equal Periodic Payments

Notice 2022-6

SECTION 1. PURPOSE

.01 This notice provides guidance on whether a series of payments from an individual account under a qualified retirement plan is considered a series of substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Internal Revenue Code. This guidance also applies for purposes of determining whether a distribution from a non-qualified annuity contract is part of a series of substantially equal periodic payments within the meaning of section 72(q)(2)(D). This notice modifies and supersedes Rev. Rul. 2002-62, 2002-2 CB 710, and Notice 2004-15, 2004-1 CB 526.

SECTION 2. BACKGROUND

.01 Section 72(t) provides for an additional income tax on early withdrawals (which generally applies to withdrawals before age 59½) from qualified retirement plans (as defined in section 4974(c)). Section 4974(c) provides, in part, that the term “qualified retirement plan” means (1) a plan described in section 401 (including a trust exempt from tax under section 501(a)), (2) an annuity plan described in section 403(a), (3) a tax-sheltered annuity arrangement described in section 403(b), (4) an individual retirement account described in section 408(a), or (5) an individual retirement annuity described in section 408(b).

.02 Section 72(t)(1) provides that if a taxpayer receives any amount from a qualified retirement plan, the taxpayer’s income tax is increased by an amount equal to

10% of the amount received from the qualified retirement plan that is includible in gross income. Section 72(t)(2) sets forth exceptions to this 10% additional tax. Under section 72(t)(2)(A)(iv), one of the exceptions to the 10% additional tax is for distributions that are part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and designated beneficiary.

.03 Pursuant to section 72(t)(5), the term “employee” includes any participant, and in the case of distributions from an individual retirement account or annuity (IRA), the IRA owner is treated as an employee for purposes of applying section 72(t).

.04 Section 72(t)(4) provides that if a distribution is excepted from the 10% additional tax because the distribution is part of a series of substantially equal periodic payments as described in section 72(t)(2)(A)(iv) and that series of payments is subsequently modified (other than by reason of death, disability, or a distribution to which section 72(t)(10) applies) before the end of the 5-year period beginning on the date of the first payment, or before the employee attains age 59½, the employee's tax for the first year of the modification is increased by an amount equal to the tax that, but for the exception in section 72(t)(2)(A)(iv), would have been imposed, plus interest for the deferral period.

.05 Q&A-12 of Notice 89-25, 1989-1 CB 662, provides that payments are considered to be substantially equal periodic payments under section 72(t)(2)(A)(iv) if they are made in accordance with one of the following three methods: (1) the required minimum distribution method; (2) the fixed amortization method; or (3) the fixed annuitization method.

.06 Rev. Rul. 2002-62 restates the rule that payments are considered substantially equal periodic payments if they are made in accordance with one of the three methods provided in Q&A-12 of Notice 89-25. Section 2.02(c) of Rev. Rul. 2002-62 modifies the application of the fixed amortization method and the fixed annuitization method by providing that the interest rate that may be used to apply the fixed amortization method or the fixed annuitization method is any interest rate that is not greater than 120% of the federal mid-term rate (determined in accordance with section 1274(d) for either of the two months immediately preceding the month in which the distribution begins). In addition, section 2.01(c) of Rev. Rul. 2002-62 modifies the application of the fixed annuitization method by specifying the mortality table that must be used to apply that method.

.07 Section 72(q)(1) provides that if a taxpayer receives any amount under a non-qualified annuity contract, the taxpayer's income tax is increased by an amount equal to 10% of the amount received from the non-qualified annuity contract that is includible in gross income. Section 72(q)(2) sets forth exceptions to this 10% additional tax. Under section 72(q)(2)(D), one of the exceptions to the 10% additional tax is for a distribution that is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of the taxpayer and designated beneficiary. Section 72(q)(3) provides rules that are generally parallel to the rules in section 72(t)(4) and apply if a distribution is excepted from the 10% additional tax because the distribution is part of a series of substantially equal periodic payments and that series of payments is subsequently modified.

.08 Notice 2004-15 provides that taxpayers may use one of the methods set forth in Notice 89-25, as modified by Rev. Rul. 2002-62, to determine whether a distribution from a non-qualified annuity contract is part of a series of substantially equal periodic payments under section 72(q)(2)(D).

.09 Final regulations under section 401(a)(9) issued in 2020 provide new life expectancy tables for determining required minimum distributions that apply for distribution calendar years beginning on or after January 1, 2022. See Treas. Reg. § 1.401(a)(9)-9, issued in T.D. 9930, 85 FR 72427 (Nov. 12, 2020).

SECTION 3. METHODS

.01 *General rule.* Payments in a series are considered substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) if they are determined in accordance with one of the three methods described in section 3.01(a) through (c) of this notice (which are based on the three methods described in Rev. Rul. 2002-62).

(a) *The required minimum distribution method.* The annual payment for each distribution year is determined by dividing the account balance for that distribution year by the number of years from the chosen life expectancy table in section 3.02(a) of this notice for that distribution year. Under this method, the account balance, the number of years from the chosen life expectancy table, and the resulting annual payments are redetermined for each distribution year. This redetermination of the annual payment is not considered a modification of the series of substantially equal periodic payments, provided that the required minimum distribution method continues to be used and the same life expectancy tables continue to be used, except to the extent required in section 3.02(b) of this notice.

(b) *The fixed amortization method.* The annual payment for each distribution year is determined as the amount that will result in the level amortization of the account balance over a specified number of years determined using the chosen life expectancy table under section 3.02(a) of this notice and an interest rate that is permitted pursuant to section 3.02(c) of this notice. Under this method, once the account balance, the number of years from the chosen life expectancy table, and the resulting annual payment are determined for the first distribution year, the annual payment is the same amount in each succeeding distribution year.

(c) *The fixed annuitization method.* The annual payment for each distribution year is determined by dividing the account balance by an annuity factor that is the present value of an annuity of $1 per year beginning at the employee's age and continuing for the life of the employee (or the joint lives of the employee and designated beneficiary). The annuity factor is derived using the mortality rates in § 1.401(a)(9)-9(e) and an interest rate that is permitted pursuant to section 3.02(c) of this notice. Under this method, once the account balance, the annuity factor, and the resulting annual payment are determined for the first distribution year, the annual payment is the same amount in each succeeding distribution year.

.02 *Other rules.* The following rules apply for purposes of this section 3.

(a) *Life expectancy tables.* The life expectancy tables that can be used to determine distribution periods under the required minimum distribution and fixed amortization methods are: (1) the Uniform Lifetime Table in Appendix A of this notice; (2) the Single Life Table in § 1.401(a)(9)-9(b); or (3) the Joint and Last Survivor Table in § 1.401(a)(9)-9(d) (which can be used even if the designated beneficiary is not the spouse). The number of years that is used for the required minimum distribution method for a distribution year is the entry from the table for the employee's age on the employee's birthday in that distribution year. If the Joint and Last Survivor Table is used, the age of the designated beneficiary on the designated beneficiary's birthday in the distribution year is also used. In the case of the required minimum distribution method, except as provided section 3.02(b) or section 4 of this notice, the same life expectancy table that is used for the first distribution year must be used in each following distribution year. Thus, if the employee uses the Single Life Table to apply the required minimum distribution method in the first distribution year, the Single Life Table must be used in subsequent distribution years. The number of years that is used to apply the fixed amortization method is the entry from the table for the employee's age on the employee's birthday in the first distribution year (and, if applicable, the designated beneficiary's age on the designated beneficiary's birthday in that year).

(b) *Designated beneficiary under the Joint and Last Survivor Table.* If the Joint and Last Survivor Table in § 1.401(a)(9)-9(d) is used to apply the required minimum distribution method or the fixed amortization method (or if the fixed annuitization method is applied using an annuity factor determined for the joint lives of the employee and designated beneficiary), then the beneficiary whose life expectancy or expected mortality is used must be the actual designated beneficiary of the employee with respect to the account for the year of the determination. If the employee has more than one beneficiary, the identity and age of the designated beneficiary used for purposes of each of the methods described in section 3.01 of this notice are determined under the rules for determining the designated beneficiary for purposes of section 401(a)(9). The designated beneficiary is determined for a distribution year as of January 1 of the distribution year, without regard to changes in the designated beneficiary later in that distribution year or designated beneficiary determinations in prior distribution years. For example, if an IRA owner starts distributions from an IRA in 2023 at age 50, and applies either the required minimum distribution method or fixed amortization method using the Joint and Last Survivor Table for the IRA owner and the designated beneficiary, and the beneficiaries on January 1, 2023 are 25 and 55 years old, the number of years used to calculate the payment for 2023 would be 40.2 (the entry from the Joint and Last Survivor Table for ages 50 and 55), even if later in 2023 the 55-year-old is eliminated as a designated beneficiary. However, under the required minimum distribution method, if the 55-year-old beneficiary is eliminated or dies in 2023, that individual would not be taken into account in future distribution years (and if there is no designated beneficiary in a future year, the Single Life Table in § 1.401(a)(9)-9(b) is used for that distribution year).

(c) *Interest rates.* The interest rate that may be used to apply the fixed amortization method or the fixed annuitization method is any interest rate that is not more than the greater of (i) 5% or (ii) 120% of the federal mid-term rate (determined in accordance with section 1274(d) for either of the two months immediately preceding the month in which the distribution begins). The revenue rulings that include the section 1274(d) federal mid-term rates may be found at https://apps.irs.gov/app/picklist/list/federalRates.html.

(d) *Account balance.* For purposes of applying the required minimum distribution method, the account balance for a distribution year is determined under § 1.401(a)(9)-5.

For the fixed amortization and fixed annuitization methods, the account balance must be determined in a reasonable manner based on the facts and circumstances. The account balance will be treated as determined in a reasonable manner if it is the account balance on any date within the period that begins on December 31 of the year prior to the date of the first distribution and ends on the date of the first distribution.

(e) *Changes to account balance.* Under all three methods, substantially equal periodic payments are first calculated with respect to an account balance as of the first valuation date selected as described in section 3.02(d) of this notice. A modification to the series of payments will occur if, after such date, there is (1) any addition to the account balance other than by reason of investment experience, (2) any transfer of a portion of the account balance to another retirement plan, or (3) a rollover of the amount received by the employee.

(f) *Distributions from an IRA.* In the case of distributions from an IRA, the IRA owner is treated as an employee for purposes of applying this notice.

.03 *Special rules.* The following special rules may apply.

(a) *Complete depletion of assets.* If, as a result of following a method of determining substantially equal periodic payments that qualifies for the exception of section 72(t)(2)(A)(iv), an individual's assets in an individual account plan or an IRA are exhausted, any resulting reduction in the amount of the final payment (and the subsequent cessation of payments) is not a modification within the meaning of section 72(t)(4). Accordingly, the recapture tax described in section 72(t)(4)(A) will not apply in this case.

(b) *One-time change from fixed amortization method or fixed annuitization method to required minimum distribution method.* An individual who begins distributions using either the fixed amortization method or the fixed annuitization method is permitted in any subsequent distribution year to switch to the required minimum distribution method to determine the payment for the distribution year of the switch and all subsequent distribution years, and this change in method will not be treated as a modification within the meaning of section 72(t)(4). Once a change is made under this paragraph, any subsequent change from the required minimum distribution method will be a modification for purposes of section 72(t)(4).

.04 *Application to Section 72(q)*. Taxpayers may use one of the methods set forth in section 3.01 of this notice (applying the rules in section 3.02 of this notice) to determine whether a distribution from a non-qualified annuity contract is part of a series of substantially equal periodic payments under section 72(q)(2)(D). Taxpayers may use the principles of section 3.03 of this notice to determine whether a change in substantially equal periodic payments will be treated as a modification under section 72(q)(3).

SECTION 4. EFFECTIVE DATE AND TRANSITION RULES

The guidance in this notice replaces the guidance in Rev. Rul. 2002-62 and Notice 2004-15 for any series of payments commencing on or after January 1, 2023, and it may be used for a series of payments commencing in 2022. In the case of a series of payments commencing in a year prior to 2023 using the required minimum distribution method, if the payments in the series are calculated by substituting the Single Life Table, the Joint and Last Survivor Table, or the Uniform Lifetime Table described in section 3.02(a) of this notice for the corresponding table that was used under Rev. Rul. 2002-62, then the substitution will not be treated as a modification within the meaning of section 72(t)(4) or section 72(q)(3).

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Rul. 2002-62 and Notice 2004-15 are modified and superseded.

DRAFTING INFORMATION

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Appendix A to Notice 2022-6
Uniform Lifetime Table

Taxpayer's Age	Life Expectancy
10	88.2
11	87.2
12	86.2
13	85.2
14	84.2
15	83.2
16	82.2
17	81.2
18	80.2
19	79.2
20	78.2
21	77.2
22	76.2
23	75.2
24	74.2
25	73.3
26	72.3
27	71.3
28	70.3
29	69.3
30	68.3
31	67.3
32	66.3
33	65.3
34	64.3
35	63.3
36	62.3
37	61.3
38	60.3
39	59.4
40	58.4
41	57.4
42	56.4
43	55.4
44	54.4
45	53.4
46	52.4
47	51.5
48	50.5

49	49.5
50	48.5
51	47.5
52	46.5
53	45.6
54	44.6
55	43.6
56	42.6
57	41.6
58	40.7
59	39.7
60	38.7
61	37.7
62	36.8
63	35.8
64	34.9
65	33.9
66	33.0
67	32.0
68	31.1
69	30.1
70	29.2
71	28.3
72	27.4
73	26.5
74	25.5
75	24.6
76	23.7
77	22.9
78	22.0
79	21.1
80	20.2
81	19.4
82	18.5
83	17.7
84	16.8
85	16.0
86	15.2
87	14.4
88	13.7
89	12.9
90	12.2
91	11.5
92	10.8

93	10.1
94	9.5
95	8.9
96	8.4
97	7.8
98	7.3
99	6.8
100	6.4
101	6.0
102	5.6
103	5.2
104	4.9
105	4.6
106	4.3
107	4.1
108	3.9
109	3.7
110	3.5
111	3.4
112	3.3
113	3.1
114	3.0
115	2.9
116	2.8
117	2.7
118	2.5
119	2.3
120+	2.0