



For Immediate Action

Distributions and Withdrawals

November 2004

Defined Benefit Plans Must Make Required Payments

WHO'S AFFECTED This information applies to sponsors of qualified defined benefit plans, including governmental plans and non-electing church plans.

BACKGROUND AND SUMMARY All qualified plans must begin making payments, called Minimum Required Distributions (MRDs), by a participant's required beginning date (RBD). Most defined benefit plans begin making pension payments at a participant's RBD, rather than making just an MRD payment. However, MRD rules do apply and may be most notable when an employee earns additional benefits after reaching his RBD.

In June 2004, the IRS published final changes to the MRD rules that apply to defined benefit plans. The deadline for amending plans to reflect these final rules is no earlier than the last day of the 2005 plan year. As a result, defined benefit plans currently may apply either the proposed 1987, 2001, or 2002 rules, or the final 2004 MRD rules. Nevertheless, participants who are at least age 70½ in 2004 may need to receive minimum payments before year-end.

ACTION AND NEXT STEPS Participants who are 5% owners and reach age 70½ in 2004 will need to receive their first MRDs by April 1, 2005. Participants who are 5% owners and reached age 70½ before January 1, 2004, will need to receive their MRDs for 2004 (plus required actuarial increases, if they earned additional benefits in 2004) in 2005. Participants who reached age 70½ in 2004 or earlier and are *not* 5% owners, including participants in governmental plans and certain church plans, may also need to receive MRDs for 2004. See a fuller discussion of these rules below, under "Required Beginning Dates." MRDs for 2003, payable in 2004, were discussed in a communication published in late 2003.

If we regularly calculate benefits for your plan, we will automatically calculate the additional payments due, and make the necessary payments no later than December 31, 2005, to participants who took their MRDs for prior years as single sum cash settlements. Otherwise, these additional benefits will be reflected in retirement income payments made in 2005. There is no need for plan sponsors to submit any paperwork to begin this process.

If we do not calculate your plan's benefits, you must provide us with any increased payment amounts by *January 31, 2005*. However, there is no need to complete new distribution paperwork for these employees.

For initial MRD payments that must be made by April 1, 2005, we must receive the appropriate forms no later than *March 1, 2005*. If we receive forms after this date, we will make our best efforts, but cannot guarantee, to make distributions in a timely manner.

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Basic MRD Rules for Defined Benefit Plans

An employee must begin receiving his pension benefits once he reaches his Required Beginning Date (RBD). Usually, these benefits are paid in the form of an annuity. To satisfy the minimum required distribution (MRD) rules, the annuity must be paid periodically. Payment intervals cannot be more than one year in length, but may be shorter. Most plans make monthly payments.

Under the MRD rules, payments must be made

- Over the life (or lives) of the participant (and his designated beneficiary); or
- Over a period certain that is not longer than the life expectancy (or joint and last survivor expectancy) of the participant (and his designated beneficiary).

A single life annuity (which pays benefit for the life of the participant) and a joint and survivor annuity with the participant's spouse designated as the beneficiary automatically satisfy these rules.

If an employee (for example, a 5% owner) begins to receive his pension benefits under the MRD rules while he is still employed, he will usually earn additional benefits while he remains employed. Each calendar year's additional accrued benefits must begin to be distributed in the first benefit payment made during the next calendar year.

If a participant who has reached his RBD takes a single sum cash settlement of his benefits, the MRD portion of the payment (which cannot be rolled over to another qualified plan or Individual Retirement Account) is typically determined using the rules that apply to defined contribution plans.

The MRD rules also specify the manner in which death benefits must be paid. When a participant dies after he has reached his RBD and benefit payments have begun, the remaining benefits must be paid out at least as rapidly as they were being paid to the participant. Annuity payments generally meet these rules. When a participant dies before reaching his RBD, payments must be made according to either the five-year cash-out rule or the life expectancy rule. The standard Qualified Preretirement Spouse Annuity (QPSA) that is paid by most qualified defined benefit plans automatically meets these death payment requirements.

Required Beginning Dates

Different groups of participants have different Required Beginning Dates.

- The RBD for a participant who is a *5% owner* of his employer is the April 1 following the calendar year in which the participant reaches age 70½, even if he is still employed.

If an employer is a corporation, a “5% owner” is any employee who owns (or is considered to own under family attribution rules) *more than 5%* of the value of the corporation’s outstanding stock or stock having *more than 5%* of the total combined voting power of all of the corporation’s stock. If an employer is not a corporation, a 5% owner is any employee who owns more than 5% of the capital or profits interest in the employer.

- In general, the RBD for a participant who is *not a 5% owner* is the April 1 following the later of the calendar year in which he reaches age 70½ or the calendar year in which he retires.

However, this rule affects participants differently according to their dates of birth and the way their plan was amended to comply with the Small Business Job Protection Act (SBJPA) rules. *For example, a plan sponsor could have chosen to keep the old rules, so that 5% and non-5% owners have the same RBD.*

- The RBD for any participant in a *governmental plan* or a *church plan* is the April 1 following the later of the calendar year in which he reaches age 70½ or the calendar year in which he retires.

Special exceptions to these standard RBDs may apply to certain groups of participants.

Special Rules

Some participants may have signed an election form before January 1, 1984, to remain under the *distribution rules in effect before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA)*. If such an election was made, the employee must receive payments according to that election. A change in beneficiary does not revoke this election, unless it changes the period over which payments will be made.

The RBD for a *non-5% owner who was born before July 1, 1917 (i.e., reached age 70½ before January 1, 1988)* is the April 1 following the later of the calendar year in which he reaches age 70½ or the calendar year in which he retires.

MRD Payment Deadlines

Any participant who received MRD payments in 2004 must receive MRD payments in 2005, reflecting additional benefits earned in 2004. If we regularly calculate benefits for your plan, we will calculate the additional payments due, which will be paid in early 2005, to employees who took their MRDs as single sum cash settlements. Otherwise, these additional benefits will be

reflected in retirement income payments made in 2005. If we do not calculate your plan's benefits, you must provide us with any increased payment amounts by January 31, 2005. There is no need to complete new distribution paperwork for these employees.

The following participants must receive MRD payments for 2004 by April 1, 2005:

- 5% owners who reach age 70½ (i.e., born between July 1, 1933 and June 30, 1934) in 2004, even if still employed.
- Non-5% owners who reach age 70½ in 2004 and leave employment in 2004.
- Non-5% owners who previously suspended or deferred required payments, as permitted by IRS rules and plan provisions, and leave employment in 2004.
- Participants in governmental plans and certain church plans who reach age 70½ in 2004 or earlier and leave employment in 2004.

If you have not already requested payments for these participants, please send us completed paperwork by March 1, 2005. If you use the Defined Benefit Payment Authorization form, be sure to check the "MINIMUM REQUIRED DISTRIBUTION" box at the top of the form. Otherwise, be sure to submit the special MRD Form.

Specific plan provisions may require other groups of participants to receive additional payments for 2004, or initial payments by April 1, 2005, or may provide other groups of participants with the option to begin taking payments.

Final Defined Benefit Plan MRD Rules

In June 2004, the IRS published final MRD rules for defined benefit plans. As mentioned earlier, plans do not have to comply with these rules until 2006. For 2004 and 2005, plans may continue to follow the old rules. While the final rules are not substantially different from the prior rules, they do affect some forms of benefit payment. A separate publication will discuss these rules in detail.

Pension Analyst by Prudential Retirement

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