

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
OMB Control Number 1545-NEW
Proposed Regulation about Required Distributions from Retirement Plans

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The final regulations in T.D. 10001 include guidance relating to the application of section 401(a)(9) of the Internal Revenue Code (“Code”) in a situation in which an employee’s interest in a defined contribution plan is partially annuitized by using a portion of the employee’s account to purchase an annuity contract. Specifically, section 1.401(a)(9)-5(a)(5)(iv) of the final regulations provides that, in lieu of satisfying section 401(a)(9) of the Code separately with respect to an annuity contract purchased with a portion of an employee’s defined contribution plan account and the remaining account balance, a plan may permit an employee to elect to satisfy section 401(a)(9) for the annuity contract and the remaining account balance in the aggregate by adding the fair market value of the contract to the remaining account balance and treating payments under the annuity contract as distributions from the individual account. Section 1.401(a)(9)-5(a)(5)(v) of the proposed regulations provides rules of operation with respect to this aggregation option – specifically, the method and date for valuation of the annuity contract. Under these rules of operation, annuity contract issuers are expected to provide the annuity valuations as a third-party disclosure. In addition, the amount of payments made under the annuity contract and the underlying value of the annuity contract is expected to be reported to the employer as a third-party disclosure.

Section 1.401(a)(9)-5(g)(3)(i) set forth in T.D. 10001¹ provides that a plan may permit a surviving spouse who is the sole beneficiary of an employee to elect to be treated as the employee for purposes of determining the required minimum distribution from a defined contribution plan for a calendar year. Section 1.401(a)(9)-5(g)(3)(ii) of proposed REG-103529-23 supplements that provision by providing a series of rules that would apply with respect to the spousal election described above. Under the proposed regulations, if the employee dies before the employee’s required beginning date and the sole beneficiary of the employee is the surviving spouse who is subject to the life expectancy rule, then the spouse would automatically be treated as making the election. If the employee dies on or after the required beginning date, then the election would not apply automatically. However, the proposed regulations provide that the election may be the default under the terms of a plan (so that the surviving spouse need not take any action to have the election apply). This election is expected to be made as a third-party disclosure between the surviving spouse and the plan administrator, who will keep records of the election.

These proposed collections of information are covered under Code Sections 401(a)(9)

¹ T.D. 10001 is scheduled to be finalized and published alongside the newly proposed REG-103529-23. The collection requirements for T.D. 10001 are approved under 1545-1573.

and 7805.

2. USE OF DATA

The data will be used by employers that maintain qualified plans, plan administrators of qualified plans, and plan trustees or custodians to determine the required minimum distribution for a calendar year for certain defined contribution plan participants and beneficiaries.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic collection is not possible because these are third-party disclosures and recordkeeping requirements.

4. EFFORTS TO IDENTIFY DUPLICATION

The IRS is the only Agency with the authority to require this information; therefore, it is not duplicated elsewhere in the Federal government.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There is no burden on small businesses or other small entities due to the inapplicability of the authorizing statute to these entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Consequences of less frequent collection would result in the IRS being unable to verify that a qualified plan has satisfied the RMD requirements for a plan year, thereby jeopardizing the ability of the IRS to meet its mission.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of professional

groups to discuss tax law and tax forms. During these meetings, there will be an opportunity for those attending to make comments regarding the proposed § 401(a)(9).

Additionally, proposed regulation, REG-103529-23, published Month July 19, 2024, at 89 FR 58644, requested public comments and recommendations on the information collections. Any comments received on the information collections will be addressed within the Final Rule submission.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

There is no Personally Identifiable Information (PII) collected. Therefore, this collection is not impacted by the Privacy Act and does not require a Privacy Impact Assessment (PIA) or System of Records Notice (SORN).

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collections of information required by this notice are in section 1.401(a)(9)-5(a)(5) (iv) and 1.401(a)(9)-5(g)(3)(ii). This information will be used to ensure compliance with RMD requirements. The likely respondents are individuals who are either: (1) an employee's surviving spouse who is the sole designated beneficiary for purposes of the employee's defined contribution plan benefits; or (2) an employee with an individual account in a defined contribution plan who uses a portion of the account to purchase an annuity.

The estimated total annual reporting burden is 36,493 hours. The estimated annual burden per respondent is .21 hours. The estimated number of respondents is 176,580.

| Description | # of Respondents | # Responses per Respondent | Annual Responses | Hours per Response | Total Burden |
|-----------------------------|-------------------------|-----------------------------------|-------------------------|---------------------------|---------------------|
| 1.401(a)(9)-5(g) (3)(ii) | 156,960 | 1 | 156,960 | .17 | 26,683 |
| 1.401(a)(9)-5(a) (5)(iv) | 19,620 | 1 | 19,620 | .50 | 9,810 |
| Totals | 176,580 | 1 | 176,580 | .21 | 36,493 |

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

IRS does not anticipate any cost to respondents outside of what is incurred as part of usual and customary business practices.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no cost to the Federal government as these are recordkeeping and third-party disclosures.

15. REASONS FOR CHANGE IN BURDEN

These regulations are modifying the existing RMD election requirements and adding additional election requirements for certain defined contribution plan participants and beneficiaries.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.