

IMPORTANT PLAN COMPLIANCE INFORMATION

Required Minimum Distributions under IRC §401(a)(9)

One of the requirements for maintaining the tax qualified status for most retirement plans is that the plan meet the rules of IRC §401(a)(9) regarding Required Minimum Distributions. Plan Administrators need to determine if any of their participants have reached the age by which a minimum distribution is required, and must ensure that any Required Minimum Distributions are timely distributed.

Generally, a plan must provide a minimum distribution for any participant who has reached the age of 70½. The Plan may permit a participant who is still currently employed with the plan sponsor to delay the start of their Required Minimum Distributions until the later of the year in which they turn 70½ or the year in which they retire from service with the plan sponsor. **The delay is not allowed for a 5% Owner, as defined in the Tax Code. (A participant need not be a direct stock owner to be a 5% Owner. The Tax Code also considers indirect stock ownership through complicated attribution rules when determining a 5% Owner.)**

The Required Minimum Distribution generally must be made by the December 31st following the attainment of age 70½, however the first required distribution can be delayed until the April 1st of the following year, or if the plan document allows, the April 1st following the year in which the participant terminates employment. A minimum distribution is then required for every year thereafter, to be distributed by December 31.

It is the responsibility of the Plan Administrator to ensure that all Required Minimum Distributions are made from the Plan, within the distribution deadlines established by the IRS Code. The Plan Administrator is permitted to cause a Required Minimum Distribution to be made without the participant's consent, to ensure the Plan retains its qualified tax status.

ACTION STEPS:

Before the end of the year you will want to take the following steps to ensure compliance with the Required Minimum Distribution rules.

1. Determine your plan document provisions regarding the timing of Required Minimum Distributions. Specifically, you will want to know if your Plan permits a non-5% owner to delay their first Required Minimum Distribution until they retire from service with the Plan Sponsor.
2. Review your current list of participants, including terminated participants who continue to maintain an account balance in the Plan. Determine if you have any participants over age 70 that maintain an account balance in the Plan. Of particular importance will be those participants who are age 70 and older, and own more than 5% of the company, or have terminated from service.
3. If you determine a participant has reached the age in which a Required Minimum Distribution must be taken, you should contact our office for assistance in processing the distribution.

Please contact our office if you need assistance with any of the above Action Steps.