

## Lifetime Distributions

Individuals with IRAs are required to begin lifetime RMDs no later than April 1 of the year after they reach age 70½ (or, for most employer plan participants, after they retire). They do not have to take lifetime distributions from [Roth IRAs](#), but after-death distributions (below) are required. They can always withdraw more than the minimum amount from your IRA or plan in any year, but if they withdraw less than the required minimum, they will be subject to a federal penalty. The [IRS](#) penalty is an [excise tax](#) equal to 50% of the amount they should have withdrawn. This penalty is in addition to ordinary income at the individual's [marginal rate](#) and any state [income taxes](#).

Congress in December, 2008 passed legislation suspending the minimum distribution requirements that are due for the 2009 calendar year. The President is expected to sign the legislation. This legislation does not suspend RMDs that are due for 2008, including those due by April 1, 2009.

The RMD rules are designed to spread out the distributions of your entire interest in an IRA or plan account over your [life expectancy](#) or the joint life expectancy of you and your beneficiary. The purpose of the RMD rules is to ensure that people don't just accumulate retirement accounts, defer taxation, and leave these retirement funds as an inheritance. Instead, required minimum distributions force you to withdraw at least some of the funds as taxable distributions during your lifetime.

Unlike most distributions from IRAs and qualified plans, RMDs are never eligible for rollover; they must be withdrawn. However, because the distributions are not rollover-eligible, taxes are not required to be withheld at the time of distribution, and may thus be postponed until the individual files an income-tax return for the year. Any amount withdrawn ABOVE the minimum required amount will be eligible for rollover within 60 days of the distribution. Income tax must be withheld from that portion if the rollover option is not elected.

Employer-sponsored qualified retirement plans, such as 401(k) plans, require the same distributions that IRAs do. However, the beginning date requirement may be later than the date for IRAs. While IRAs require RMDs to begin by 4/1 of the year after the individual reaches age 70½, participants in an employer-sponsored plan can usually wait until 4/1 of the year after their retirement (if later than age 70 1/2) to begin distributions UNLESS the individual owns 5% or more of the employer who is sponsoring the plan.

In addition, employer-sponsored plans differ from IRAs in rules relating to aggregation. A person with multiple IRAs may add the balances in each account to determine the total RMD for the year, then take that full amount from a single IRA, or split it in any manner between two or more IRAs. However, employer-sponsored plans must remain distinct; the RMD calculation for each is performed separately, and the distributions must be taken from each plan individually.



**To discuss your IRA case, please call Kim Adams-Moore**

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## After death distributions

Distributions after death must be made to the named beneficiary of the decedent's IRA or qualified plan. Legislation passed in 2006 allows qualified retirement plans to be amended to offer a "nonspouse rollover." If the rollover is available, the beneficiary may make a direct transfer of the funds to an inherited IRA, which must be in the name of the decedent for the benefit of the named beneficiary. This became effective beginning in 2007.

Congress in December, 2008 passed legislation suspending, for 2009 only, the requirement of minimum distributions. The President is expected to sign the legislation. This legislation does not suspend RMDs that are due for 2008.

IRA beneficiaries do not require a nonspouse rollover; an IRA beneficiary can have a decedent's IRA retitled in his/her own name without a "rollover" transaction. (Spouses have much greater rollover rights and can delay distributions until their own age 70 1/2 if they so choose.) A nonspouse IRA beneficiary must either begin distributions by the end of the year following the decedent's death (they can elect a "stretch" payout if they do this) or, if the decedent died before 4/1 of the year after he/she would have been 70 1/2, the beneficiary can follow the "5-year rule." The suspension of the RMD requirements for 2009 (as described above in December 2008 legislation) also means that when counting the 5-year rule, 2009 is disregarded.

The 5-year rule does not apply if the decedent died after having started his/her required minimum distributions (generally if he/she died later than 4/1 after reaching age 70 1/2). In that case, there is NO 5-year rule, and the beneficiary takes distributions over the longer of his/her own life expectancy or the remaining life expectancy that the decedent would have had (using government tables). Many taxpayers are misinformed by advice that they must take all of their distribution from an elderly relative's IRA in a 5-year period.

However, if the decedent died BEFORE age 70 1/2 and the beneficiary does not start a lifetime payout by the end of the year after death, the 5-year rule does apply. Also, if the decedent died before that date and had no beneficiary (for example if he/she named the estate as beneficiary, or a charity) the 5-year rule applies. Many retirement plans also trigger the 5-year rule.

The 5-year rule states that the entire account balance must be withdrawn over a 5 year period. It does NOT require a certain amount each year, or an even division between the five years. However, with the 5-year distribution method, the entire remaining balance becomes a required distribution in the fifth year. If a decedent has named his/her estate or a charity as beneficiary and the 5-year rule applies, no "stretch" payout is possible. If an estate or charity is beneficiary of a part of the account, the same holds true unless certain remedial measures are taken by September 30 of the year after death.

This is just a brief overview of rules based on [Internal Revenue Code](#) Section 401(a)(9). The rules take up dozens of pages of Treasury regulations at Treas. Regs. 1.401(a)(9)-1 to -9 and 1.408-8. (See TD 8987, [Federal Register](#), volume 67, beginning at page 18988, dated April 17, 2002. The nonspouse rollover rules were passed in Section 829 of the Pension Protection Act of 2006, and interpreted by IRS Notice 2007-7, 2007-5 IRB 1.

## Final Retirement Plan Uniform Distribution Table (2002)

On April 17, 2002, the Internal Revenue Service (IRS) issued final regulations with respect to minimum required distributions from Individual Retirement Accounts (IRAs) and tax-deferred employer retirement savings plans such as 401(k)s, 403(b)s, and Section 457 plans. The rules are officially effective as of January 1, 2003, but can also be used for 2002 distributions.

The Uniform Distribution table, below, can be used by most taxpayers. The only exception is the so-called "spousal exception" for married couples where one spouse is more than 10 years younger than the other is. These couples will use a joint life expectancy table, which results in a longer life expectancy and a lower required distribution.

<u>Age of Taxpayer</u>	<u>Distribution Period (years)</u>	<u>Age of Taxpayer</u>	<u>Distribution Period (years)</u>
70	27.4	93	9.6
71	26.5	94	9.1
72	25.6	95	8.6
73	24.7	96	8.1
74	23.8	97	7.6
75	22.9	98	7.1
76	22.0	99	6.7
77	21.2	100	6.3
78	20.3	101	5.9
79	19.5	102	5.5
80	18.7	103	5.2
81	17.9	104	4.9
82	17.1	105	4.5
83	16.3	106	4.2
84	15.5	107	3.9
85	14.8	108	3.7
86	14.1	109	3.4
87	13.4	110	3.1
88	12.7	111	2.9
89	12.0	112	2.6
90	11.4	113	2.4
91	10.8	114	2.1
92	10.2	115	1.9

*To determine your minimum required Individual Retirement Account (IRA) and/or employer retirement plan distribution, Step One is to add up the total amount in (each of) your retirement account(s) on December 31 of the previous year. Step Two is to divide the amount in each account by the appropriate figure in the Uniform Distribution Table based on the account owner's age. For example, the divisor for someone who turns 70 in the first half of the year is 27.4. If that person has \$100,000 in an IRA or other retirement plan, he or she would divide \$100,000 by 27.4 to determine the required minimum withdrawal amount ( $\$100,000 \div 27.4 = \$3,650$ ) for that account.*

*Actual cash withdrawals can be taken from any number of IRA accounts that you hold as long as the total of all withdrawals meets the minimum required amount. Of course, you can always withdraw more than the minimum required distribution any time that you choose, without penalty, once you reach age 59½. However, if you withdraw less than you are required to after age 70½, the IRS assesses a harsh penalty equal to half of what you should have withdrawn, but didn't. Beginning in 2004, custodians of retirement accounts will have to report to the IRS accounts that are subject to required minimum distributions.*

## SPOUSAL EXCEPTION JOINT LIFE EXPECTANCY\*

Use this table only if for the entire distribution calendar year your spouse will be sole beneficiary of the account<sup>1</sup> AND your spouse is more than 10 years younger than you. The figures provide the joint life expectancy factor you will need for calculating your MRD.

		YOUR AGE										
		70	71	72	73	74	75	76	77	78	79	80
AGE OF YOUR BENEFICIARY	40	44.0	44.0	43.9	43.9	43.9	43.8	43.8	43.8	43.8	43.8	43.7
	41	43.1	43.0	43.0	43.0	42.9	42.9	42.9	42.9	42.8	42.8	42.8
	42	42.2	42.1	42.1	42.0	42.0	42.0	41.9	41.9	41.9	41.9	41.8
	43	41.3	41.2	41.1	41.1	41.1	41.0	41.0	41.0	40.9	40.9	40.9
	44	40.3	40.3	40.2	40.2	40.1	40.1	40.1	40.0	40.0	40.0	40.0
	45	39.4	39.4	39.3	39.3	39.2	39.2	39.1	39.1	39.1	39.1	39.0
	46	38.6	38.5	38.4	38.4	38.3	38.3	38.2	38.2	38.2	38.1	38.1
	47	37.7	37.6	37.5	37.5	37.4	37.4	37.3	37.3	37.2	37.2	37.2
	48	36.8	36.7	36.6	36.6	36.5	36.5	36.4	36.4	36.3	36.3	36.3
	49	35.9	35.9	35.8	35.7	35.6	35.6	35.5	35.5	35.4	35.4	35.4
	50	35.1	35.0	34.9	34.8	34.8	34.7	34.6	34.6	34.5	34.5	34.5
	51	34.3	34.2	34.1	34.0	33.9	33.8	33.8	33.7	33.6	33.6	33.6
	52	33.4	33.3	33.2	33.1	33.0	33.0	32.9	32.8	32.8	32.7	32.7
	53	32.6	32.5	32.4	32.3	32.2	32.1	32.0	32.0	31.9	31.8	31.8
	54	31.8	31.7	31.6	31.5	31.4	31.3	31.2	31.1	31.0	31.0	30.9
	55	31.1	30.9	30.8	30.6	30.5	30.4	30.3	30.3	30.2	30.1	30.1
	56	30.3	30.1	30.0	29.8	29.7	29.6	29.5	29.4	29.3	29.3	29.2
	57	29.5	29.4	29.2	29.1	28.9	28.8	28.7	28.6	28.5	28.4	28.4
	58	28.8	28.6	28.4	28.3	28.1	28.0	27.9	27.8	27.7	27.6	27.5
	59	28.1	27.9	27.7	27.5	27.4	27.2	27.1	27.0	26.9	26.8	26.7
	60	27.4	27.2	27.0	26.8	26.6	26.5	26.3	26.2	26.1	26.0	25.9
61	n/a	26.5	26.3	26.1	25.9	25.7	25.6	25.4	25.3	25.2	25.1	
62	n/a	n/a	25.6	25.4	25.2	25.0	24.8	24.7	24.6	24.4	24.3	
63	n/a	n/a	n/a	24.7	24.5	24.3	24.1	23.9	23.8	23.7	23.6	
64	n/a	n/a	n/a	n/a	23.8	23.6	23.4	23.2	23.1	22.9	22.8	
65	n/a	n/a	n/a	n/a	n/a	22.9	22.7	22.5	22.4	22.2	22.1	
66	n/a	n/a	n/a	n/a	n/a	n/a	22.0	21.8	21.7	21.5	21.3	
67	n/a	n/a	n/a	n/a	n/a	n/a	n/a	21.2	21.0	20.8	20.6	
68	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	20.3	20.1	20.0	
69	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	19.5	19.3	
70	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	18.7	

Source: Internal Revenue Service, Supplement to Publication 590, Table II, Joint Life and Last Survivor Expectancy.

\*The spousal exception joint life expectancy table is not applicable to calculation of MRD amounts for inherited retirement accounts.

<sup>1</sup> Under the 2002 rules, some exceptions apply in years in which your spouse dies or you divorce. See your tax advisor for more information.

AGE OF YOUR BENEFICIARY	YOUR AGE											
	80	81	82	83	84	85	86	87	88	89	90	
50	34.5	34.4	34.4	34.4	34.3	34.3	34.3	34.3	34.3	34.3	34.3	34.2
51	33.6	33.5	33.5	33.5	33.4	33.4	33.4	33.4	33.4	33.4	33.3	33.3
52	32.7	32.6	32.6	32.6	32.5	32.5	32.5	32.5	32.5	32.5	32.4	32.4
53	31.8	31.8	31.7	31.7	31.7	31.6	31.6	31.6	31.6	31.6	31.5	31.5
54	30.9	30.9	30.8	30.8	30.8	30.7	30.7	30.7	30.7	30.7	30.7	30.6
55	30.1	30.0	30.0	29.9	29.9	29.9	29.8	29.8	29.8	29.8	29.8	29.8
56	29.2	29.2	29.1	29.1	29.0	29.0	29.0	28.9	28.9	28.9	28.9	28.9
57	28.4	28.3	28.3	28.2	28.2	28.1	28.1	28.1	28.0	28.0	28.0	28.0
58	27.5	27.5	27.4	27.4	27.3	27.3	27.2	27.2	27.2	27.2	27.2	27.1
59	26.7	26.6	26.6	26.5	26.5	26.4	26.4	26.4	26.3	26.3	26.3	26.3
60	25.9	25.8	25.8	25.7	25.6	25.6	25.5	25.5	25.5	25.4	25.4	25.4
61	25.1	25.0	24.9	24.9	24.8	24.8	24.7	24.7	24.6	24.6	24.6	24.6
62	24.3	24.2	24.1	24.1	24.0	23.9	23.9	23.8	23.8	23.8	23.8	23.7
63	23.6	23.4	23.4	23.3	23.2	23.1	23.1	23.0	23.0	22.9	22.9	22.9
64	22.8	22.7	22.6	22.5	22.4	22.3	22.3	22.2	22.2	22.1	22.1	22.1
65	22.1	21.9	21.8	21.7	21.6	21.6	21.5	21.4	21.4	21.3	21.3	21.3
66	21.3	21.2	21.1	21.0	20.9	20.8	20.7	20.7	20.6	20.5	20.5	20.5
67	20.6	20.5	20.4	20.2	20.1	20.1	20.0	19.9	19.8	19.8	19.7	19.7
68	20.0	19.8	19.7	19.5	19.4	19.3	19.2	19.2	19.1	19.0	19.0	19.0
69	19.3	19.1	19.0	18.8	18.7	18.6	18.5	18.4	18.3	18.3	18.2	18.2
70	18.7	18.5	18.3	18.2	18.0	17.9	17.8	17.7	17.6	17.6	17.5	17.5
71	n/a	17.9	17.7	17.5	17.4	17.3	17.1	17.0	16.9	16.9	16.8	16.8
72	n/a	n/a	17.1	16.9	16.7	16.6	16.5	16.4	16.3	16.2	16.1	16.1
73	n/a	n/a	n/a	16.3	16.1	16.0	15.8	15.7	15.6	15.5	15.4	15.4
74	n/a	n/a	n/a	n/a	15.5	15.4	15.2	15.1	15.0	14.9	14.8	14.8
75	n/a	n/a	n/a	n/a	n/a	14.8	14.6	14.5	14.4	14.3	14.2	14.2
76	n/a	n/a	n/a	n/a	n/a	n/a	14.1	13.9	13.8	13.7	13.6	13.6
77	n/a	n/a	n/a	n/a	n/a	n/a	n/a	13.4	13.2	13.1	13.0	13.0
78	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	12.7	12.6	12.4	12.4
79	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	12.0	11.9	11.9
80	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	11.4

Source: Internal Revenue Service, Supplement to Publication 590, Table II, Joint Life and Last Survivor Expectancy.

\*The spousal exception joint life expectancy table is not applicable to calculation of MRD amounts for inherited retirement accounts.

<sup>1</sup> Under the 2002 rules, some exceptions apply in years in which your spouse dies or you divorce. See your tax advisor for more information.