

## Planning Ideas—Keep Your Exceptions Straight

You would think they could make it easier. It’s challenging enough to keep track of the basic tax rules applicable to distributions from IRAs, non-qualified annuities, and qualified retirement plan benefits. It’s even harder to remember when the dreaded 10 percent penalty on distributions applies and when an exception is available.

Congress hasn’t made it easy. There are overlapping, but also varying, exceptions in the case of each type of retirement vehicle. The reasons for the differences are rooted in late night negotiations in Congressional conferences, lobbying efforts, and poor drafting. In any event, unless major changes are made to the Internal Revenue Code, the exceptions to the 10 percent penalty are likely to have Advisors tearing their hair out for years to come.

To make it a little easier, here’s a cheat sheet for you to use the next time you need to advise a client as to whether a distribution will be subject to penalty. Yes means an exception applies and the distribution is not subject to the 10% penalty; no means an exception does not apply and the distribution is subject to the 10 % penalty.

Distributions...	Traditional IRA	Non-Qualified Annuity	Qualified Retirement Plan
Before age 59 ½	No	No	No
Due to death	Yes	Yes (upon <b>holder’s death</b> , or death of primary annuitant if an individual is not the holder)	Yes
Due to disability	Yes	Yes (for <b>taxpayer</b> , who may or may not be the annuitant)	Yes

Series of substantially equal periodic payments for life or life expectancy	Yes	Yes (for <b>taxpayer</b> , who may or may not be the annuitant)	Yes
Following age 55 due to participant's separation from service	No	No	Yes
Up to amount allowed as a medical expense deduction (regardless of whether distribute itemizes)	Yes	No	No
Up to amounts paid for medical insurance by individuals receiving unemployment compensation for at least twelve months (or could have received such compensation, but for being self-employed)	Yes	No	No
For qualified higher education expenses	Yes	No	No
For qualified first-time home purchases up to \$10,000	Yes	No	No
To alternate payee under a qualified domestic relations order (QDRO)	No	No	Yes

Made on account of an IRS levy	Yes	No	Yes
Made post-August 17, 2006 from a governmental defined benefit pension plan to a qualified public safety employee separating from service after age 50	N/A	No	Yes
Allocable to pre-August 14, 1982 investment in the contract	No	Yes	No

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