

IRC 72(t)

(t)

10-percent additional tax on early distributions from qualified retirement plans

(1)

Imposition of additional tax

If any taxpayer receives any amount from a qualified retirement plan (as defined in section [4974\(c\)](#)), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

(2)

Subsection not to apply to certain distributions

Except as provided in paragraphs (3) and (4), paragraph (1) shall not apply to any of the following distributions:

(A)

In general

Distributions which are -

(i)

made on or after the date on which the employee attains age 59 1/2,

(ii)

made to a beneficiary (or to the estate of the employee) on or after the death of the employee,

(iii)

attributable to the employee's being disabled within the meaning of subsection (m)(7),

(iv)

part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of such employee and his designated beneficiary,

(v)

made to an employee after separation from service after attainment of age 55, or

(vi)

dividends paid with respect to stock of a corporation which are described in section [404\(k\)](#).

(B)

Medical expenses

Distributions made to the employee (other than distributions described in subparagraph (A) or (C)) to the extent such distributions do not exceed the amount allowable as a deduction under section [213](#) to the employee for amounts paid during the taxable year for medical care (determined without regard to whether the employee itemizes deductions for such taxable year).

(C)

Payments to alternate payees pursuant to qualified domestic relations orders

Any distribution to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section [414\(p\)\(1\)](#)).

(3)

Limitations

(A)

Certain exceptions not to apply to individual retirement plans

Subparagraphs (A)(v), (B), and (C) of paragraph (2) shall not apply to distributions from an individual retirement plan.

(B)

Periodic payments under qualified plans must begin after separation

Paragraph (2)(A)(iv) shall not apply to any amount paid from a trust described in section [401\(a\)](#) which is exempt from tax under section [501\(a\)](#) or from a contract described in section [72\(e\)\(5\)\(D\)\(ii\)](#) unless the series of payments begins after the employee separates from service.

(4)

Change in substantially equal payments

(A)

In general

If -

(i)

paragraph (1) does not apply to a distribution by reason of paragraph (2)(A)(iv), and

(ii)

the series of payments under such paragraph are subsequently modified (other than by reason of death or disability) -

(I)

before the close of the 5-year period beginning with the date of the first payment and after the employee attains age 59 1/2, or

(II)

before the employee attains age 59 1/2, the taxpayer's tax for the 1st taxable year in which such modification occurs shall be increased by an amount, determined under regulations, equal to the tax which (but for paragraph (2)(A)(iv)) would have been imposed, plus interest for the deferral period.

(B)

Deferral period

For purposes of this paragraph, the term "deferral period" means the period beginning with the taxable year in which (without regard to paragraph (2)(A)(iv)) the distribution would have been includible in gross income and ending with the taxable year in which the modification described in subparagraph (A) occurs.

(5)

Employee

For purposes of this subsection, the term "employee" includes any participant, and in the case of an individual retirement plan, the individual for whose benefit such plan was established.