Exceptions to the 70½ Rule

If you work for a company and do not own at least 5% of the company, you don't need to take distributions until April 1 of the year after you retire, regardless of your age. You can even be working part time. This exception applies only to the plan of the company for which you currently work. It does not apply to your IRA or to money you have left in plans of ex-employers.

If you have a 403b plan, you may delay distributions of contributions you made prior to 1987 until you reach age 75. You will need to withdraw post-1986 contributions based on the normal age 70½ rule.

Note that you can be make contributions to a retirement plan while you may be distributing from others. You can make contributions to a Roth IRA (if you have earned income) past age 70½, or you can make contributions to your employers 401(k) if working or your own Keogh plan if operating a business.

Exceptions to the 10% Penalty

Previously, we discussed Section 72t and the ability to remove funds from an IRA before age 59 ½ using substantial equal periodic payments. There are other ways to avoid the 10% penalty, and here is a list.

IRC section 72(t) penalty exemption	Major restrictions
Distribution due to the disability of a participant.	- Participant must be disabled within the meaning of IRC section 72(m)(7).
Distribution as part of a series of substantially equal periodic payments.	- Payments must not occur less frequently than annually. - Payments from plans other than IRAs or individual retirement annuities must not begin before employee separates from service.
Distribution due to separation from service.	- Does not apply if the separation from service occurs before the year the participant turns 55. - Does not apply to IRA distributions or to self-employed

	individuals.
Distribution less than or equal to deductible medical expenses.	- Does not apply to pre-1997 IRA distributions.
Distribution to unemployed participant for health insurance premiums.	- Applies only to IRA distributions. - Participant must have received federal or state unemployment compensation for 12 consecutive weeks or have qualified under the self-employment provision. - Limited to amount of health insurance premiums paid.
Distribution for qualified higher education expenses of the participant or spouse, or their children or grandchildren.	- Applies only to IRA distributions. - Does not apply if participant qualifies for another exemption.
Distribution for the first-time purchase of a principal residence by the participant or spouse, or their child or grandchild.	- Applies only to IRA distributions. - Distribution must be used within 120 days to pay qualified acquisition costs. - Lifetime limit of $10,000. - Does not apply if participant qualifies for another exemption.
Distribution subject to loan agreement.	- Loan agreement must be legally enforceable. - Term of loan cannot exceed five years unless distribution is used to acquire a principal residence. - Participant must adhere to specified repayment schedule and the amount of the loan is limited.
Distribution made to a beneficiary or the estate of a participant on or after the participant's	- Only applies to spousal beneficiary if spouse elects to leave plan assets in participant's name rather

death.	than rolling them over into IRA established in spouse's own name.
Dividend distribution to ESOP participant.	- Distribution must meet conditions for dividend deductibility established in IRC section 402(e)(1)(A).
Distribution pursuant to federal tax levy on plan under section 6631.	- Does not apply to pre-2000 distributions or distributions used to pay federal income taxes in the absence of a levy under IRC section 6631.
Distribution to alternate payee under a qualified domestic relations order.	- Does not apply to IRA distributions. - Applies to reduced annuity payment regardless of age retiree makes election and retires.
Distribution to federal retire electing lump sum credit and reduced annuity.	- Does not apply to lump-sum distribution if retiree makes the election and retires before the year he or she reaches age 55.
Distribution rolled over into another qualified retirement plan within 60 days of the distribution.	- IRS can waive the 60-day rollover period if it believes the participant missed the deadline because of a "hardship" beyond his or her control.
Distribution to correct excess contributions.	- Applies to 402(g), 401(k) and 401(m) plans and IRAs.
Distribution upon conversion from traditional to Roth IRA.	- Applies to entire distribution (including portion of distribution includable in income).