

IRS Issues Guidance on 401(k) Plan Long-Term Care Distributions

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IRS Notice 2026-33 (May 20, 2026)

Available at <https://www.irs.gov/pub/irs-drop/n-26-33.pdf>

The IRS has issued a notice with guidance on qualified long-term care distributions from 401(k) and other defined contribution plans. Qualified long-term care distributions, established by the SECURE 2.0 Act, are plan distributions made after December 29, 2025, that satisfy specified criteria and do not exceed (in the aggregate during a year) the least of: the amount paid during the year for “certified long-term care insurance” for the employee or the employee’s spouse; 10% of the present value of the participant’s nonforfeitable accrued benefit; or \$2,600 (as indexed for 2026). The notice explains that qualified long-term care distributions are considered to satisfy the Code § 401(k)(2)(B) distribution rules (and similar rules under Code §§ 403 and 457), are not subject to the additional 10% tax on early distributions under Code § 72(t), and are not eligible rollover distributions.

A distribution is not a qualified long-term care distribution unless a “long-term care premium statement” has been filed with the plan. This statement, which the insurer must furnish to the plan upon the coverage owner’s request, sets forth specified information about the coverage, including the amount of premiums owed for the calendar year. The insurer must also file a disclosure with the IRS stating (among other things) that the coverage is certified long-term care insurance.

Here are highlights of the guidance for plan administrators:

- **No Requirement to Offer.** Plans are not required to make these distributions available to participants. If the plan does not offer them, a participant is not permitted to unilaterally treat a distribution as a qualified long-term care distribution.
- **Plan Amendment Deadline.** If a plan does offer long-term care distributions, the plan document must be amended by December 31, 2027, for plans other than collectively bargained or governmental plans. The guidance notes that this is an extension of the general December 31, 2026, deadline for SECURE 2.0 Act amendments. No extension is provided for amending collectively bargained or governmental plans for these distributions—those deadlines remain, respectively, December 31, 2028, and December 31, 2029.
- **Reliance on Insurer Information.** The plan is permitted to rely on the information provided in the insurer’s long-term care premium statement, including that the coverage is certified long-term care insurance and that the required disclosure has been filed with the IRS.
- **No Repayment.** Unlike some other distributions permitted in special circumstances, qualified long-term care distributions may not be repaid to the plan.
- **Reporting Requirements.** Payment of a qualified long-term care distribution is reported on Form 1099-R.

EBIA Comment: Plan sponsors that have decided to permit long-term care distributions should familiarize themselves with these requirements, work with their service providers, and prepare to amend plan documents by the deadline. Also, participant communications should be updated to reflect the availability of these distributions

and the related requirements. For more information, see EBIA's 401(k) Plans manual at Section XII.G.7 ("Qualified Long-Term Care Distributions").

Contributing Editors: EBIA Staff.