



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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MEMORANDUM FOR EMPLOYEE PLANS (EP) EXAMINATIONS EMPLOYEES

FROM: Thomas J. Petit /s/ *Thomas J. Petit*  
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SUBJECT: Missing Participants and Beneficiaries and Required Minimum  
Distributions

This memorandum directs EP examiners not to challenge a qualified plan as failing to satisfy the required minimum distribution (RMD) standards under Internal Revenue Code (IRC) § 401(a)(9) in the circumstances set forth below. This memo addresses only the application of IRC §401(a)(9) to certain circumstances involving a plan's action related to a benefit of a participant or beneficiary whom the plan is unable to locate and does not address the application of any other qualification requirements or other applicable law, including Title I of ERISA. This is not a pronouncement of law and is not subject to use, citation, or reliance as such. Nothing herein shall affect the operation of any other provision of the IRC, Treasury Regulations, or guidance thereunder.

**Background**

In general, IRC § 401(a)(9) establishes RMD standards for qualified plans. According to the RMD standards, distribution of a participant's accrued benefit under a qualified plan must commence after the attainment of age 70½ of the participant or, in the case of a participant who is not a 5% owner of the plan sponsor, the participant's retirement. In certain cases, plans have been unable to commence or make a distribution to a terminated participant due to the plan's inability to locate the participant.

## **Administrative Guidelines**

For purposes of IRC § 401(a)(9), EP examiners shall not challenge a qualified plan for violation of the RMD standards for the failure to commence or make a distribution to a participant or beneficiary to whom a payment is due, if the plan has taken the following steps:

- searched plan and related plan, sponsor, and publicly-available records or directories for alternative contact information;
- used any of the search methods below:
  - a commercial locator service;
  - a credit reporting agency; or
  - a proprietary internet search tool for locating individuals; and
- attempted contact via United States Postal Service (USPS) certified mail to the last known mailing address and through appropriate means for any address or contact information (including email addresses and telephone numbers).

If a plan has not completed the steps above, EP examiners may challenge a qualified plan for violation of the RMD standards for the failure to commence or make a distribution to a participant or beneficiary to whom a payment is due.

## **Effect on Other Documents**

This guidance will be incorporated into IRM 4.71.1 by October 19, 2019.

## **Effective Date**

This memo applies to exams open on and after the date of issuance.

## **Point of Contact**

For questions regarding this memo, contact Lou Leslie at (202) 317-8619.

## **Distribution**

All EP Exam employees  
[www.irs.gov](http://www.irs.gov)