

SEP IRA but does not include a SIMPLE IRA or a Roth IRA.

(3) *SEP IRA*. Section 408(k) describes a simplified employee pension (SEP) as an employer-sponsored plan under which an employer can make contributions to IRAs established for its employees. The term SEP IRA means an IRA that receives contributions made under a SEP. The term SEP includes a salary reduction SEP (SARSEP) described in section 408(k)(6).

(4) *SIMPLE IRA*. Section 408(p) describes a SIMPLE IRA Plan as an employer-sponsored plan under which an employer can make contributions to SIMPLE IRAs established for its employees. The term SIMPLE IRA means an IRA to which the only contributions that can be made are contributions under a SIMPLE IRA Plan or rollovers or transfers from another SIMPLE IRA.

(5) *Roth IRA*. The term Roth IRA means an IRA that meets the requirements of section 408A.

(b) *Other defined terms or phrases*—(1) *4-year spread*. The term 4-year spread is described in § 1.408A-4 A-8.

(2) *Conversion*. The term conversion means a transaction satisfying the requirements of § 1.408A-4 A-1.

(3) *Conversion amount or conversion contribution*. The term conversion amount or conversion contribution is the amount of a distribution and contribution with respect to which a conversion described in § 1.408A-4 A-1 is made.

(4) *Failed conversion*. The term failed conversion means a transaction in which an individual contributes to a Roth IRA an amount transferred or distributed from a traditional IRA or Simple IRA (including a transfer by redesignation) in a transaction that does not constitute a conversion under § 1.408A-4 A-1.

(5) *Modified AGI*. The term modified AGI is defined in § 1.408A-3 A-5.

(6) *Recharacterization*. The term recharacterization means a transaction described in § 1.408A-5 A-1.

(7) *Recharacterized amount or recharacterized contribution*. The term recharacterized amount or recharacterized contribution means an amount or contribution treated as contributed to an IRA other than the one to which it

was originally contributed pursuant to a recharacterization described in § 1.408A-5 A-1.

(8) *Taxable conversion amount*. The term taxable conversion amount means the portion of a conversion amount includable in income on account of a conversion, determined under the rules of section 408(d)(1) and (2).

(9) *Tax-free transfer*. The term tax-free transfer means a tax-free rollover described in section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10) or 408(d)(3), or a tax-free trustee-to-trustee transfer.

(10) *Treat an IRA as his or her own*. The phrase treat an IRA as his or her own means to treat an IRA for which a surviving spouse is the sole beneficiary as his or her own IRA after the death of the IRA owner in accordance with the terms of the IRA instrument or in the manner provided in the regulations under section 408(a)(6) or (b)(3).

(11) *Trustee*. The term trustee includes a custodian or issuer (in the case of an annuity) of an IRA (except where the context clearly indicates otherwise).

[T.D. 8816, 64 FR 5610, Feb. 4, 1999]

§ 1.408A-9 Effective date.

This section contains the following question and answer providing the effective date of §§ 1.408A-1 through 1.408A-8:

Q-1. To what taxable years do §§ 1.408A-1 through 1.408A-8 apply?

A-1 Sections 1.408A-1 through 1.408A-8 apply to taxable years beginning on or after January 1, 1998.

[T.D. 8816, 64 FR 5611, Feb. 4, 1999]

§ 1.408A-10 Coordination between designated Roth accounts and Roth IRAs.

Q-1. Can an eligible rollover distribution, within the meaning of section 402(c)(4), from a designated Roth account, as defined in A-1 of § 1.402A-1, be rolled over to a Roth IRA?

A-1. Yes. An eligible rollover distribution, within the meaning of section 402(c)(4), from a designated Roth account may be rolled over to a Roth IRA. For purposes of this section, a

§ 1.408A-10

designated Roth account means a designated Roth account as defined in A-1 of § 1.402A-1.

Q-2. Can an eligible rollover distribution from a designated Roth account be rolled over to a Roth IRA even if the distributee is not otherwise eligible to make regular or conversion contributions to a Roth IRA?

A-2. Yes. An individual may establish a Roth IRA and roll over an eligible rollover distribution from a designated Roth account to that Roth IRA even if such individual is not eligible to make regular contributions or conversion contributions (as described in section 408A(c)(2) and (d)(3), respectively) because of the modified adjusted gross income limits in section 408A(b)(3).

Q-3. For purposes of the ordering rules on distributions from Roth IRAs, what portion of a distribution from a rollover contribution from a designated Roth account is treated as contributions?

A-3. (a) Under section 408A(d)(4), distributions from Roth IRAs are deemed to consist first of regular contributions, then of conversion contributions, and finally, of earnings. For purposes of section 408A(d)(4), the amount of a rollover contribution that is treated as a regular contribution is the portion of the distribution that is treated as investment in the contract under A-6 of § 1.402A-1, and the remainder of the rollover contribution is treated as earnings. Thus, the entire amount of any qualified distribution from a designated Roth account that is rolled over into a Roth IRA is treated as a regular contribution to the Roth IRA. Accordingly, a subsequent distribution from the Roth IRA in the amount of that rollover contribution is not includable in gross income under the rules of A-8 of § 1.408A-6.

(b) If the entire account balance of a designated Roth account is distributed to an employee and only a portion of the distribution is rolled over to a Roth IRA within the 60-day period described in section 402(c)(3), and at the time of the distribution, the investment in the contract exceeds the balance in the designated Roth account, the portion of investment in the contract that exceeds the amount used to determine the taxable amount of the

26 CFR Ch. I (4-1-11 Edition)

distribution is treated as a regular contribution for purposes of section 408A(d)(4).

Q-4. In the case of a rollover from a designated Roth account to a Roth IRA, when does the 5-taxable-year period (described in section 408A(d)(2)(B) and A-1 of § 1.408A-6) for determining qualified distributions from a Roth IRA begin?

A-4. (a) The 5-taxable-year period for determining a qualified distribution from a Roth IRA (described in section 408A(d)(2)(B) and A-1 of § 1.408A-6) begins with the earlier of the taxable year described in A-2 of § 1.408A-6 or the taxable year in which a rollover contribution from a designated Roth account is made to a Roth IRA. The 5-taxable-year period described in this A-4 and the 5-taxable-year period of participation described in A-4 of § 1.402A-1 are determined independently.

(b) The following examples illustrate the application of this A-4:

Example 1. Employee D began making designated Roth contributions under his employer's 401(k) plan in 2006. Employee D, who is over age 59½, takes a distribution from D's designated Roth account in 2008, prior to the end of the 5-taxable-year period of participation used to determine qualified distributions from a designated Roth account. The distribution is an eligible rollover distribution and D rolls it over in accordance with sections 402(c) and 402A(c)(8) to D's Roth IRA, which was established in 2003. Any subsequent distribution from the Roth IRA of the amount rolled in, plus earnings thereon, would not be includable in gross income (because it would be a qualified distribution within the meaning of section 408A(d)(2)).

Example 2. The facts are the same as in *Example 1*, except that the Roth IRA is D's first Roth IRA and is established with the rollover in 2008, which is the only contribution made to the Roth IRA. If a distribution is made from the Roth IRA prior to the end of the 5-taxable-year period used to determine qualified distributions from a Roth IRA (which begins in 2008, the year of the rollover which established the Roth IRA) the distribution would not be a qualified distribution within the meaning of section 408A(d)(2), and any amount of the distribution that exceeded the portion of the rollover contribution that consisted of investment in the contract is includable in D's gross income.

Example 3. The facts are the same as in *Example 2*, except that the distribution from the designated Roth account and the rollover to the Roth IRA occur in 2011 (after the end

of the 5-taxable-year period of participation used to determine qualified distributions from a designated Roth account). If a distribution is made from the Roth IRA prior to the expiration of the 5-taxable-year period used to determine qualified distributions from a Roth IRA, the distribution would not be a qualified distribution within the meaning of section 408A(d)(2), and any amount of the distribution that exceeded the amount rolled in is includable in D's gross income.

Q-5. Can amounts distributed from a Roth IRA be rolled over to a designated Roth account as defined in A-1 of § 1.402A-1?

A-5. No. Amounts distributed from a Roth IRA may be rolled over or transferred only to another Roth IRA and are not permitted to be rolled over to a designated Roth account under a section 401(a) or section 403(b) plan. The same rule applies even if all the amounts in the Roth IRA are attributable to a rollover distribution from a designated Roth account in a plan.

Q-6. When is this § 1.408A-10 applicable?

A-6. The rules of this § 1.408A-10 apply for taxable years beginning on or after January 1, 2006.

[T.D. 9324, 72 FR 21115, Apr. 30, 2007]

§ 1.409-1 Retirement bonds.

(a) In general. Section 409 authorizes the issuance of bonds under the Second Liberty Bond Act the purchase price of which would be deductible under section 219. Section 409 also prescribes the tax treatment of such bonds. See paragraph (b) of this section.

(b) Income tax treatment of bonds—(1) General rule. Except as provided in paragraph (b)(2) of this section, the entire proceeds upon redemption of a retirement bond described in section 409(a) shall be included in the gross income of the taxpayer entitled to such proceeds. If a bond has not been tendered for redemption by the registered owner before the close of the taxable year in which he attains age 70½, he must include in his gross income for such taxable year the amount of the proceeds he would have received if the bond had been redeemed at age 70½. The provisions of sections 72 and 1232 do not apply to a retirement bond.

(2) Exceptions. (i) If a retirement bond is redeemed within 12 months after the

issue date, the proceeds are excluded from gross income if no deduction is allowed under section 219 on account of the purchase of such bond. For definition of issue date, see 31 CFR 346.1(c).

(ii) If a retirement bond is redeemed after the close of the taxable year in which the registered owner attains age 70½ the proceeds from the redemption of the bond are excludable from the gross income of the registered owner or his beneficiary to the extent that such proceeds were includable in the gross income of the registered owner for such taxable year.

(iii) If a retirement bond is surrendered for reissuance in the same or lesser face amount, the difference between current redemption value of the bond surrendered for reissuance and the current surrender value of the bond reissued is includable in the gross income of the registered owner.

(3) **Basis.** The basis of a retirement bond is zero.

(c) Rollover. The first sentence of paragraph (b)(1) of this section shall not apply in any case in which a retirement bond is redeemed by the registered owner before the close of the taxable year in which he attains the age of 70½ if he transfers the entire amount of the proceeds of such redemption to—

(1) An individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b) (other than an endowment contract described in § 1.408-3(e)), or

(2) An employees' trust which is described in section 401(a) which is exempt from tax under section 501(a), or an annuity plan described in section 403(a), for the benefit of the registered owner, on or before the 60th day after the day on which he received the proceeds of such redemption. This subparagraph shall not apply in the case of a transfer to a trust or plan described in (c)(2) of this section unless no part of the purchase price of the retirement bond redeemed is attributable to any source other than a rollover contribution from such an employees' trust or annuity plan (other than an annuity plan or employees' trust forming part of a plan under which the individual was an employee within the meaning of