

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 includible 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 includible 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 includible 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

section 401(c)(1) at the time contributions were made on his behalf under the plan).

(d) *Additional tax*—(1) *Early redemption*. Except as provided in paragraph (d)(2) of this section, under section 409(c) if a retirement bond is redeemed by the registered owner before he attains age 59½, his tax under chapter 1 of the Code is increased by an amount equal to 10 percent of the proceeds of the redemption includible in his gross income for the taxable year. Except in the case of the credits allowable under sections 31, 39, or 42, no credit can be used to offset the tax described in the preceding sentence.

(2) *Limitations*. Paragraph (d)(1) of this section shall not apply if—

(i) During the taxable year of the registered owner in which a retirement bond is redeemed, the registered owner becomes disabled within the meaning of section 72(m)(7), or

(ii) A retirement bond is tendered for redemption in accordance with paragraph (b)(2)(i) of this section.

[T.D. 7714, 45 FR 52799, Aug. 8, 1980]

**§ 1.409A-0 Table of contents.**

This section lists captions contained in §§ 1.409A-1, 1.409A-2, 1.409A-3, 1.409A-4, 1.409A-5 and 1.409A-6.

*§ 1.409A-1 Definitions and covered plans.*

- (a) Nonqualified deferred compensation plan.
  - (1) In general.
  - (2) Qualified employer plans.
  - (3) Certain foreign plans.
    - (i) Participation addressed by treaty.
    - (ii) Participation by nonresident aliens, certain resident aliens, and bona fide residents of possessions.
    - (iii) Participation by U.S. citizens and lawful permanent residents.
    - (iv) Plans subject to a totalization agreement and similar plans.
    - (v) Broad-based foreign retirement plan.
  - (4) Section 457 plans.
  - (5) Certain welfare benefits.
- (b) Deferral of compensation
  - (1) In general.
  - (2) Earnings.
  - (3) Compensation payable pursuant to the service recipient's customary payment timing arrangement.

- (4) Short-term deferrals.
  - (i) In general.
  - (ii) Certain delayed payments.
  - (iii) Examples.
- (5) Stock options, stock appreciation rights, and other equity-based compensation.
  - (i) Stock rights.
    - (A) Nonstatutory stock options not providing for the deferral of compensation.
    - (B) Stock appreciation rights not providing for the deferral of compensation.
    - (C) Stock rights that may provide for the deferral of compensation.
    - (D) Feature for the deferral of compensation.
    - (E) Rights to dividends.
  - (ii) Statutory stock options.
  - (iii) Service recipient stock.
    - (A) In general.
    - (B) American depositary receipts.
    - (C) Mutual company units.
    - (D) Other entities.
    - (E) Eligible issuer of service recipient stock.
      - (1) In general.
      - (2) Investment vehicles.
      - (3) Corporate structures established or transactions undertaken for purposes of avoiding coverage under section 409A.
      - (4) Substitutions and assumptions by reason of a corporate transaction.
  - (iv) Determination of the fair market value of service recipient stock.
    - (A) Stock readily tradable on an established securities market.
    - (B) Stock not readily tradable on an established securities market.
      - (1) In general.
      - (2) Presumption of reasonableness.
      - (3) Use of alternative methods.
    - (v) Modifications, extensions, substitutions, and assumptions of stock rights.
      - (A) Treatment of modified and extended stock rights.
      - (B) Modification in general.
      - (C) Extensions.
        - (1) In general.
        - (2) Certain extensions before April 10, 2007.
        - (3) Examples.
      - (D) Substitutions and assumptions of stock rights by reason of a corporate transaction.
      - (E) Acceleration of date when exercisable.