

## Earliest Distributable Events Allowed by Law<sup>i</sup>

Type of Plan	401(a) Defined Benefit Plan <sup>ii</sup>	401(a) Profit Sharing Defined Contribution Plan <sup>iii</sup>	401(k) Defined Contribution Plan <sup>iv</sup>
Distributable Event	<ul style="list-style-type: none"> <li>• Severance from employment</li> <li>• Disability</li> <li>• Death</li> <li>• Age 62<sup>v</sup></li> <li>• Retirement</li> <li>• Normal Retirement Age</li> </ul>	<ul style="list-style-type: none"> <li>• Severance from employment</li> <li>• Disability</li> <li>• Death</li> <li>• The attainment of a stated age</li> <li>• Retirement</li> <li>• The prior occurrence of some other event, such as layoff or illness</li> <li>• A fixed number of years</li> </ul>	<ul style="list-style-type: none"> <li>• Severance from employment</li> <li>• Disability</li> <li>• Death</li> <li>• Age 59 &amp; ½</li> <li>• Financial hardship (from elective deferrals only).</li> </ul>

<sup>i</sup> This chart lists the earliest dates that funds may be distributed under current laws and regulations from different types of pension and retirement plans. However, depending on the terms of the plan, distributions may not be available until a later date.

<sup>ii</sup> Treas. Reg. §1.401-1(b)(1)(i); See Rev. Rul. 56-693, 1956-2 C.B. 282; Rev. Rul. 57-163, 1957-1 C.B. 128; Rev. Rul. 61-157, 1961-2 C.B. 67; Rev. Rul. 65-178, 1965-2 C.B. 94; and Rev. Rul. 69-421, 1969-2 C.B. 59. The Internal Revenue Service (IRS) has ruled that a pension plan may allow for a distribution before severance of employment, but only after an individual has reached the plan's normal retirement age. See Rev. Rul. 71-24, 1971-1 C.B. 114.

<sup>iii</sup> Treas. Reg. § 1.401-1(b)(1)(ii). Under IRS guidance, profit sharing contributions may be distributed after such contributions have remained in the trust for two years. See Rev. Rul. 71-295. In addition, a participant may withdraw all employer contributions (including contributions that have been made within the last 24 months) from a profit sharing plan if the participant has 60 months of participation in the plan. See Rev. Rul. 68-24.

<sup>iv</sup> Code § 401(k)(2)(B)(i); Treas. Reg. § 1.401(k)-1(d)(1). If matching contributions are used to meet the actual deferral percentage ("ADP") test, they are subject to the Code Section 401(k) distribution rules (known as qualified matching contributions or "QMACS"). See Code §401(k)(3)(D)(ii). If matching contributions are not used to meet the ADP testing, presumably they would be subject to the profit sharing distribution rules. Qualified nonelective contributions ("QNEC") also are subject to the Code section 401(k) distribution rules. Code §401(k)(3)(D)(iii). QNECS are any employer contributions, other than matching contributions, which the employee may not elect to have in cash instead of as a contribution to the plan.

<sup>v</sup> The Pension Protection Act of 2006 amended the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code (Code) of 1986 to allow for a distribution from a pension or retirement plan to individuals who are at least age 62 and who have not yet had a severance of employment.