

Exceptions to the 10% Penalty on Early Distributions

Form 5329 — Penalty applies to distributions taken before age 59½ unless one of the following exceptions apply.
Enter the applicable exception code on line 2, Form 5329. If more than one exception applies, use code 12.

Note: For purposes of the exceptions to the 10% early withdrawal penalties, distributions from IRAs include the taxable portion of a distribution from a Roth IRA.

Type	Code	Exception to 10% Penalty	Qualified Plans 401(k), etc.	IRA, SEP, SIMPLE IRA, and SARSEP Plans
Separation from Service	01	Distribution from a qualified retirement plan if the participant separated from service on or after the year he or she reached age 55 (age 50 for qualified public safety employees). A public safety employee is a state, local, or federal employee that provides police protection, firefighting services, or emergency medical services, customs and border protection, or is an air traffic controller. Does not apply to IRAs. [IRC §72(t)(2)(A)(v)]	Yes	No
Substantially Equal Periodic Payments	02	Distribution as part of a series of substantially equal periodic payments (made at least annually) based on the participant's life expectancy, or the joint life expectancy of the participant and designated beneficiary. If from an employer plan, the payments must begin after separation from service [IRC §72(t)(2)(A)(iv)]. This exception does not apply if the payment schedule is subsequently modified before the participant attains age 59½, or after the participant attains age 59½ and less than five years have elapsed since the first payment was received [IRC §72(t)(4)]. <i>Example:</i> Beth begins taking IRA distributions at age 58 under a periodic payment schedule. At age 61, she modifies the payment schedule. All distributions prior to age 59½ are subject to the penalty in the year the modification occurs.	Yes	Yes
Disability	03	Distribution due to the participant's total and permanent disability. [IRC §72(t)(2)(A)(iii)]	Yes	Yes
Death	04	Distribution to a beneficiary (or the estate) on or after the death of the participant. Does not apply to modified endowment contracts. [IRC §72(t)(2)(A)(ii)]	Yes	Yes
Medical Expenses	05	Distribution from a qualified plan to pay for unreimbursed medical expenses to the extent they would be allowable as an itemized deduction, regardless of whether or not the participant itemizes deductions. [IRC §72(t)(2)(B)]	Yes	Yes
Divorce Settlement	06	Distribution from a qualified retirement plan made to an alternate payee under a qualified domestic relations order (QDRO). Does not apply to IRAs. [IRC §72(t)(2)(C)]	Yes	No
Unemployed Health Insurance	07	Distribution from an IRA to an unemployed individual to pay for health insurance after leaving a job if the individual has received unemployment compensation for 12 consecutive weeks. A self-employed individual qualifies under this exception if the individual would have received unemployment compensation but for the fact the individual was self-employed. [IRC §72(t)(2)(D)]	No	Yes
Higher Education	08	Distribution from an IRA to pay for higher education expenses of the taxpayer, spouse, child, or grandchild. Qualifying expenses include tuition, fees, books, supplies, equipment, and room and board if at least a half-time student. [IRC §72(t)(2)(E)] <i>Caution:</i> To qualify, expenses must be paid in same year as IRA distribution. (Duronio, T.C. Memo. 2007-90)	No	Yes
First-Time Homebuyer	09	Distribution from an IRA to purchase a first home, up to \$10,000. The \$10,000 is a lifetime limit. A first-time homebuyer is an individual that has not owned a principal residence for at least two years. If taxpayers are married, both must qualify as first-time homebuyers, in which case they may each receive distributions up to \$10,000 without paying the 10% penalty. [IRC §72(t)(2)(F)]	No	Yes
IRS Levy	10	Distribution due to an IRS levy on the qualified retirement plan. [IRC §72(t)(2)(A)(vii)]	Yes	Yes
Qualified Reservist	11	Qualified reservist distribution from an IRA, or attributable to elective deferrals, made to a person called to active duty for a period of at least 180 days or for an indefinite period. [IRC §72(t)(2)(G)]	Yes	Yes
Other	12	<ul style="list-style-type: none"> Distribution on or after the date the participant turned age 59½ if box 7, Form 1099-R, incorrectly indicates it is an early distribution with codes 1, J, or S. [IRC §72(t)(2)(A)(i)] Distribution from an IRC section 457 plan which was not from a rollover from a qualified retirement plan. [IRC §72(t)(9)] Distribution from an employer plan under a written election that provides a specific schedule for distribution of the entire interest if, as of March 1, 1986, the participant separated from service and had begun receiving payments under the election. Distribution that is a dividend paid with respect to certain employer stock described in IRC section 404(k). [IRC §72(t)(2)(A)(vii)] Distribution from a deferred annuity contract to the extent allocable to investment in the contract before August 14, 1982. Distributions from a phased retirement annuity or composite annuity received by an employee participating in the Federal Phased Retirement Program. Distribution from a deferred annuity contract under a qualified personal injury settlement. Distribution from a deferred annuity contract purchased by the participant's employer upon termination of a qualified plan held by the employer until separation from service. Distribution from an immediate annuity contract. An immediate annuity is a single premium contract providing substantially equal annuity payments that start within one year from the date of purchase and paid at least annually. 		

Disaster Relief. An exception to the 10% early withdrawal penalty may apply for qualified disaster distributions.
For tax relief in disaster situations, go to www.irs.gov/newsroom/tax-relief-in-disaster-situations.