72(t) Charts

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This chart summarizes which "72(t)" exceptions are available for which types of retirement plans, including dollar limits and "payback provisions" (allowing the distributee to contribute the distribution back into a retirement account) if any. Chart #1 lists distributions that are not ever subject to the penalty—categories of distributions that the penalty simply does not apply to. Chart #2 summarizes the true "exceptions" to the penalty—distributions that normally WOULD be subject to the penalty, but due to the particular circumstances of this recipient and/or use of this distribution, it qualifies for an exception. "§"indicates a section of the Internal Revenue Code of 1984 as amended through January 31, 2024. "¶" indicates a section of the author's book *Life and Death Planning for Retirement Benefits* (8th ed. 2018) for exceptions explained therein. See Note 3 for limitations.

Chart #1: Distributions that are not subject to the penalty

The § 72(t)(2) 10% "additional tax" does not apply to these 12 types of distributions, deemed distributions, or other income-generating event:

Distribution to a participant who is age 59½ or older. 72(t)(2)(A)(i).
There is one exception to this rule: see "modification of SOSEPP," ¶ 9.3.

Distribution from a plan not listed in § 4974(c) such as a 457 plan. § 72(t)(1).
And there is one exception to this rule, see Note 1.

Distributions that are not subject to income tax. § 72(t)(1). This includes the "NUA" portion of a plan distribution of employer stock; see ¶ 2.5 and § 402(e)(4)(A), (B). For exception to this rule, see ¶ 5.8.02(C) (certain distributions after pre-age-59½ Roth conversion).

Roth conversion. § 408A(d)(3)(A)(ii). ¶ 5.8.02.

Inherited accounts. § 72(t)2)(A)(ii). Distributions to a beneficiary are exempt even if beneficiary is under 59½ or participant died before 59½. If spouse as beneficiary rolls it to her own account or elects to treat inherited account as hers she becomes "participant," and loses her "beneficiary" exemption for post-rollover distributions while under 59½.

Dividends paid on stock held in an ESOP under § 404(k). § 72(t)(2)(A)(vi).

"Payments under a phased retirement annuity under section 8366a(a)(5) or 8412a(a)(5) of title 5, United States Code, or a composite retirement annuity under section 8366a(a)(1) or 8412a(a)(1) of such title." § 72(t)(2)(A)(viii). I have no idea what this means.

Distributions from a pension-linked emergency savings account. § 402A(e), § 72(t)(2)(J).
These Roth-type accounts, which may be created by plan sponsors after 2023, are capped at $2,500 (plus earnings, plus COLA).

Deemed distribution resulting from plan-owned life insurance. ¶ 9.1.02(D).
Other "deemed" distributions (due to "failed" plan loans or prohibited transactions) *are* subject to the penalty. ¶ 9.1.02(E), (F).

Corrective distributions from 401 plans (§ 401(k)(8)(D), § 402(g)(2)(C)); IRA contributions withdrawn under § 408(d)(4). After 2022, the *income* included in a § 408(d)(4) distribution is also penalty-free. § 72(t)(2)(A)(ix).

Payments to alternate payees under QDROs. Non-IRA plans only. § 72(t)(2)(C), (3)(A).

Chart #2: Distributions that would be subject to the penalty (i.e., not "penalty-exempt" under Chart #1), but are exempt because of the particular circumstances of the recipient and/or use of the distribution

Type of penalty-exempt distribution	Plan(s) qualifying for this exemption:	Dollar limit if any	Can dist. be paid back to a plan?	Code section
Disability	All plans subject to the penalty; list in § 4974(c) (see Note 1 for list)	None	No	§ 72(t)(2)(A)(iii) § 72(m)
SOSEPP	IRAs anytime. All other plans: only after separation from service	None	No	§ 72(t)(2)(A)(iv), (3)(B)
Early retirement, age 55	All plans except IRAs See ¶ 9.4.04 for definition of early ret.	None	No	§ 72(t)(2)(A)(v), (3)(A).
Early retirement, age 50: Public safety employees	"Governmental" plans as defined in § 414(d)	None	No	§ 72(t)(2)(A)(v), (10)(A), (B)
Early retirement, age 50: private sector firefighters	Qualified plans and 403(a) and (b) plans and accounts (plans listed in § 402(c)(8)(B)(iii), (iv), or (vi)).	None	No	§ 72(t)(2)(A)(v), (10)(A)
§ 6331 tax levy	All plans	None	No	§ 72(t)(2)(A)(vii)
Deductible medical expenses	All plans	None	No	§ 72(t)(2)(B); § 213. See Note 2
Health insurance premiums if unemployed	IRAs only	None	No	§ 72(t)(2)(D)
Higher education expense	IRAs only	None	No	§ 72(t)(2)(E), (7); § 25A(g)(2)
First home purchase	IRAs only	$10,000 lifetime limit	No	§ 72(t)(2)(F), (8)

Qualified reservist distribution as defined in § 72(t)(2)(G)	IRAs; elective deferral accounts in certain types of plans	None	Yes until 2 years after end of active duty; payback NOT deductible	§ 72(t)(2)(G)
Qualified birth or adoption distribution (QBOAD)	All plans	$5,000 per birth or adoption	Yes, within 3 years. Payback treated as tax-free rollover.	§ 72(t)(2)(H)
Emergency expenses (after 2023 only)	All plans except defined benefit plans	$1,000 (or vested acct. value in excess of $1,000 if less). Once per 3 years.	Yes; same rules as QBOAD	§ 72(t)(2)(I)
Domestic abuse (after 2023 only)	IRAs; most profit sharing plans. No pension plans. See § 401(a)(11)(B).	$10,000 or 50% of account if less	Yes; same rules as QBOAD	§ 72(t)(2)(K)
Terminal illness	All plans	None	Yes; same rules as QBOAD	§ 72(t)(2)(L)
Federally declared disasters	All plans	$22,000 per disaster. Tax spread over 3 years (optional).	Yes; similar to QBOAD	§ 72(t)(2)(M), (11)
Long-term care insurance premiums (after 12/29/2025 only)	401(a) qualified plans only	$2,500 (plus COLA after 2024) or 10% of vested acct. if less	No	§ 72(t)(2)(N); § 401(a)(39)

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Notes to charts:

Note 1: Explanation of Code sections defining plans to which a particular exemption applies: "All plans" in these charts means all plans subject to the 10% penalty, as defined in § 4974(c). § 72(t)(1). § 4974(c) plans are: qualified plans under § 401 (such as 401(k) plans); § 403(a)/§ 403(b) annuities and accounts; and individual retirement accounts under § 408(a) (IRAs), and individual retirement annuities under § 408(b). The definition includes Roth IRAs; see § 408A(a), and Reg. § 1.408A-6, A-5(a). The definition specifically includes any plan or account that has been determined by the IRS to be tax-qualified under one of those Code sections even if it is no longer so qualified.

Since 457 plans are not included in § 4974(c), 457 plans are generally not subject to the 10% penalty; however, if money is rolled over into a 457 plan, from a plan that IS subject to the penalty, distributions from the rollover account are subject to the penalty.§ 72(t)(9).

Note 2: Deductible medical expenses *only* to the extent not already penalty-free under certain other exemptions, namely, those listed in § 72(t)(2)(A), (C) [alternate payee] or (D) [health insurance premiums]. Some other exceptions also have provisions dealing with how to deal with a distribution that qualifies for more than one exception.

Note 3: These charts are intended to provide a quick introduction to and summary of the § 72(t) exceptions to the 10% penalty. The goal is to provide a handy reference tool enabling the practitioner to find exceptions that may help a client. Most of the "exceptions" are surrounded by many more details than can be summarized in a chart. Use the citations provided to learn the full requirements and limitations of each exception.