

# WHAT YOU SHOULD KNOW ABOUT YOUR RETIREMENT



This publication has been developed by the U.S. Department of Labor, Employee Benefits Security Administration (EBSA).

To view this and other publications, visit the agency's Website at **[www.dol.gov/ebsa](http://www.dol.gov/ebsa)**. To order publications, or to speak with a benefits advisor, contact EBSA electronically at **[www.askebsa.dol.gov](http://www.askebsa.dol.gov)**. Or call toll free **1-866-444-3272**.

This material will be made available in alternative format to persons with disabilities upon request:

Voice phone: (202) 693-8664  
TTY: (202) 501-3911

This booklet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

## ▶ CHAPTER 4: PAYMENT OF BENEFITS

Once you understand what type of plan you have, how you earn benefits, and how much your benefits will be, it is important to learn when and how you can receive them.

### WHEN CAN YOU BEGIN TO RECEIVE RETIREMENT BENEFITS?

There are several points to keep in mind in determining when you can receive benefits:

1. Federal law provides guidelines, shown in Table 7 below, for when plans must start paying retirement benefits.
2. Plans can choose to start paying benefits sooner. The plan documents will state when you may begin receiving payments from your plan.
3. You must file a claim for benefits for your payments to begin. This takes some time for administrative reasons. (See Chapter 6.)

**TABLE 7: Requirements Under Federal Law for Payment of Retirement Benefits**

<b>Under Federal law, your plan must allow you to begin receiving benefits* the later of -</b>		
Reaching age 65 or the age your plan considers to be normal retirement age (if earlier)	<b>Or -</b> 10 years of service	<b>Or -</b> Terminating your service with the employer

\*For administrative reasons, benefits do not begin immediately after meeting these conditions. At a minimum, your plan must provide that you will start receiving benefits within 60 days after the end of the plan year in which you satisfy the conditions. Also, you need to file a claim under your plan's procedures. (See Chapter 6.)

Under certain circumstances, your benefit payments may be suspended if you continue to work beyond normal retirement age. The plan must notify you of the suspension during the first calendar month or payroll period in which payments are withheld. This information should also be included in the **Summary Plan Description**. A plan also must advise you of its procedures for requesting an advance determination of whether a particular type of reemployment would result in a suspension of benefit payments. If you are a retiree and are considering taking a job, you may wish to write to your plan administrator and ask if your benefits would be suspended.

Table 7 shows the general requirements for when payments begin. Listed below are some permitted variations:

- ▶ Although **defined benefit plans** and **money purchase plans** generally allow you to receive benefits only when you reach the plan's retirement age, some have provisions for early retirement.

- ▶ **401(k) plans** often allow you to receive your account balance when you leave your job.
- ▶ 401(k) plans may allow for distributions while still employed if you have reached age 59½ or if you suffer a hardship.
- ▶ **Profit sharing plans** may permit you to receive your **vested** benefit after a specific number of years or whenever you leave your job.
- ▶ A phased retirement option allows employees at or near retirement age to reduce their work hours to part-time, receive benefits, and continue to earn additional funds.
- ▶ **ESOPs** do not have to pay out any benefits until 1 year after the plan year in which you retire, or as many as 6 years if you leave for reasons other than retirement, death, or disability.

## WARNING

1. You may owe current income taxes – and possibly tax penalties – on your distribution if you take money out before age 59½, unless you transfer it to an **IRA** or another tax-qualified retirement plan.
2. Taking all or a portion of your funds out of your account before retirement age will mean you have less in retirement benefits.

## WHEN IS THE LATEST YOU MAY BEGIN TO TAKE PAYMENT OF YOUR BENEFITS?

Federal law sets a mandatory date by which you must start receiving your retirement benefits, even if you would like to wait longer. This mandatory start date generally is set to begin on April 1 following the calendar year in which you turn 70½ or, if later, when you retire. However, your plan may require you to begin receiving distributions even if you have not retired by age 70½.

## IN WHAT FORM WILL YOUR BENEFITS BE PAID?

If you are in a defined benefit or money purchase plan, the plan must offer you a benefit in the form of a life annuity, which means that you will receive equal, periodic payments, often as a monthly benefit, which will continue for the rest of your life. Defined benefit and money purchase plans may also offer other payment options, so check with the plan. If you are in a **defined contribution plan** (other than a money purchase plan), the plan may pay your benefits in a single lump sum payment as well as offer other options, including payments over a set period of time (such as 5 or 10 years) or an annuity with monthly lifetime payments.

If you are leaving your employer before retirement age, see the next chapter.

## CAN A BENEFIT CONTINUE FOR YOUR SPOUSE SHOULD YOU DIE FIRST?

In a defined benefit or money purchase plan, unless you and your spouse choose otherwise, the form of payment will include a survivor's benefit. This survivor's benefit, called a qualified joint and survivor annuity (QJSA), will provide payments over your lifetime and your spouse's lifetime. The benefit payment that your surviving spouse receives must be at least half of the benefit payment you received during your joint lives. While the survivor's benefit is typically 50 percent, some plans provide for other options, such as 75 percent. Note that your monthly benefit payments will be reduced because the benefit payments will continue for your spouse's lifetime should you die first.

---

If you choose not to receive the survivor's benefit, you will receive benefits for your lifetime only. You must follow specific rules to waive the survivor benefit. You and your spouse must receive a written explanation of the QJSA and, within certain time limits, you must make a written waiver and your spouse must sign a written consent to the alternative payment form without a survivor's benefit, stating that you both understand that benefit payments will end when you die. Your spouse's signature must be witnessed by a notary or plan representative.

In most 401(k) plans and other defined contribution plans, the plan is written so different protections apply for surviving spouses. In general, in most defined contribution plans, if you should die before you receive your benefits, your surviving spouse will automatically receive them. If you wish to select a different beneficiary, your spouse must consent by signing a waiver, witnessed by a notary or plan representative.

If you were single when you enrolled in the plan and subsequently married, it is important that you notify your employer and/or plan administrator and change your status under the plan. If you do not have a spouse, it is important to name a beneficiary.

If you or your spouse left employment prior to January 1, 1985, different rules apply. For more information on these rules, contact the Department of Labor electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling toll free 1-866-444-3272.

### **CAN YOU BORROW FROM YOUR 401(k) PLAN ACCOUNT?**

401(k) plans are permitted to – but not required to – offer loans to participants. The loans must charge a reasonable rate of interest and be adequately secured. The plan must include a procedure for applying for the loans and the plan's policy for granting them. Loan amounts are limited to the lesser of 50 percent of your account balance or \$50,000 and must be repaid within 5 years (unless the loan is used to purchase a principal residence).

### **CAN YOU GET A DISTRIBUTION FROM YOUR PLAN IF YOU ARE NOT YET 65 OR YOUR PLAN'S NORMAL RETIREMENT AGE BUT ARE FACING A SIGNIFICANT FINANCIAL HARDSHIP?**

Again, defined contribution plans are permitted to – but not required to – provide distributions in case of hardship. Check your plan booklet to see if it does permit them and what circumstances are included as hardships.

### **ACTION ITEMS**

- ▶ Find out when and in what form you can receive your benefits at retirement.
- ▶ Fill out the necessary forms to update information with your retirement plan.
- ▶ Notify the retirement plan of any change of address or marital status.
- ▶ Keep all documents for your records, including Summary Plan Descriptions, company memos, and individual benefit statements.
- ▶ For tax information, look at Internal Revenue Service Publication 575 (*Pension and Annuity Income*) by visiting [www.irs.gov](http://www.irs.gov) and clicking on "Forms and Pubs".



---

## ▶ CHAPTER 5: TAKING YOUR RETIREMENT BENEFIT WITH YOU

If you leave an employer before you reach retirement age, whether or not you can take your benefits out and/or roll them into another tax-qualified plan or account will depend on what type of plan you are in.

### IF YOU LEAVE BEFORE RETIREMENT, CAN YOU TAKE YOUR RETIREMENT BENEFIT WITH YOU?

If you are in a **defined benefit plan** (other than a **cash balance plan**), you most likely will be required to leave the benefits with the retirement plan until you become eligible to receive them. As a result, it is very important that you update your personal information with the **plan administrator** regularly and keep current on any changes in your former employer's ownership or address.

If you are in a cash balance plan, you probably will have the option of transferring at least a portion of your account balance to an **individual retirement account** or to a new employer's plan.

If you leave your employer before retirement age and you are in a **defined contribution plan** (such as a **401(k) plan**), in most cases you will be able to transfer your account balance out of your employer's plan.

### WHAT CHOICES DO YOU HAVE FOR TAKING YOUR DEFINED CONTRIBUTION BENEFITS?

- ▶ A lump sum – you can choose to receive your benefits as a single payment from your plan, effectively cashing out your account. You may need to pay income taxes on the amount you receive, and possibly a penalty.
- ▶ A **rollover** to another retirement plan – you can ask your employer to transfer your account balance directly to your new employer's plan if it accepts such transfers.
- ▶ A rollover to an IRA – you can ask your employer to transfer your account balance directly to an individual retirement account (IRA).
- ▶ If your account balance is less than \$5,000 when you leave the employer, the plan can make an immediate distribution without your consent. If this distribution is more than \$1,000, the plan must automatically roll the funds into an IRA it selects, unless you elect to receive a lump sum payment or to roll it over into an IRA you choose. The plan must first send you a notice allowing you to make other arrangements, and it must follow rules regarding what type of IRA can be used (i.e., it cannot combine the distribution with savings you have deposited directly in an IRA). Rollovers must be made to an entity that is qualified to offer individual retirement plans. Also, the rollover IRA must have investments designed to preserve principal. The IRA provider may not charge more in fees and expenses for such plans than it would to its other individual retirement plan customers.

**Please note:** If you elect a lump sum payment and do not transfer the money to another retirement account (employer plan or IRA other than a Roth IRA), you will owe a tax penalty if you are under age 59½ and do not meet certain exceptions. In addition, you may have less to live on during your retirement. Transferring your retirement plan account balance to another plan or an IRA when you leave your job will protect the tax advantages of your account and preserve the benefits for retirement.

---

## WHAT HAPPENS IF YOU LEAVE A JOB AND LATER RETURN?

If you leave an employer for whom you have worked for several years and later return, you may be able to count those earlier years toward **vesting**. Generally, a plan must preserve the service credit you have accumulated if you leave your employer and then return within five years. Service credit refers to the **years of service** that count towards vesting. Because these rules are very specific, you should read your **plan document** carefully if you are contemplating a short-term break from your employer, and then discuss it with your plan administrator. If you left employment prior to January 1, 1985, different rules apply.

If you retire and later go back to work for a former employer, you must be allowed to continue to accrue additional benefits, subject to a plan limit on the total years of service credited under the plan.

## ACTION ITEMS

- ▶ If you are leaving an employer before retirement, find out whether you can roll your benefits into a new plan or into an IRA.
- ▶ If you are leaving your benefits in your former employer's plan, be sure to keep your contact information up to date with the former employer, and keep track of the employer's contact information.
- ▶ If you are considering taking your benefits out as a lump sum, find out what taxes and penalties you will owe, and make a plan on how you will replace that income in retirement.