

**INITIAL REPORT TO THE LEGISLATURE**  
**Department of the Treasury**  
**Board of Trustees of the Louisiana State Employees' Retirement System**  
Part I. Louisiana State Employees' Retirement System  
DROP Program  
(LAC 58:I.2713)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes amendment of a provision in Chapter 27 of Part I of LAC Title 58. The proposed rule change is required to comply with changes in federal law made by the Secure Act, which became law in December of 2019. The Act changed the time when a Required Minimum Distribution ("RMD") must be made from Deferred Option Retirement Plan ("DROP") accounts of LASERS retirees. The age was moved from age 70 ½ to age 72. Section 2713 must be amended to conform to that change. The proposed rule change complies with and is enabled by R.S. 11:515. The intent is to put the rule changes into place on December 20, 2020.

Cindy Rougeou  
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person

Preparing

Statement: Steve Stark

Dept: LASERS

Phone: 225-922-0398

Office: Legal Division

Return

Address: 8401 United Plaza Blvd.

Rule

Title: DROP Program

Baton Rouge LA 70806

Date Rule

Takes Effect: December 20, 2020

SUMMARY  
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units as a result of this proposed rule change.

The proposed rule makes a change to Chapter 27 of Title 58, Part I of the Louisiana Administrative Code applicable to Louisiana State Employees' Retirement System (LASERS). The existing Deferred Retirement Option Plan (DROP) rules are being updated to reflect changes to Required Minimum Distributions (RMD) made by the SECURE Act, which was recently passed by Congress and changes the RMD age from 70 ½ to age 72.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Implementation of the proposed change will allow retirees to delay receiving required minimum distributions from their retirement account by a year and half, which may result in the retiree having a lower income tax liability during that period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

  
\_\_\_\_\_  
Signature of Agency Head or Designee

  
\_\_\_\_\_  
Legislative Fiscal Officer or Designee

Cindy Rougeou, Executive Director  
Typed Name and Title of Agency Head or Designee

9-4-2020  
\_\_\_\_\_  
Date of Signature

9/9/20  
\_\_\_\_\_  
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

*The federal SECURE Act went into effect on December 20, 2019, changing many provisions of retirement law. One of the changes affected the age at which retired DROP participants must begin taking Required Minimum Distributions ("RMDs"), changing it from age 70 ½ to age 72. Accordingly, LASERS must amend Section 2713 to conform with the change from 70 ½ to age 72.*

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

*The changes made to federal retirement law made via the SECURE Act in 2019 require LASERS amend its regulations to correctly reflect those changes.*

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ Yes. If yes, attach documentation.

(b) \_\_\_\_\_ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT**

**WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

<b>COSTS</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>
Personal Services			
Operating Expenses			
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.	0	0	0
<b>TOTAL</b>			
<b>POSITIONS (#)</b>	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

*The proposed rule amendment has no anticipated implementation cost.*

3. Sources of funding for implementing the proposed rule or rule change.

<b>SOURCE</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
<b>TOTAL</b>	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

*No impact is expected on local governmental units.*

2. Indicate the sources of funding of the local government unit which will be affected by these costs or savings.

*Since no impact is expected, no sources of funding have been identified.*

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENT UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

*No effect on revenue collections to state or local governmental units is anticipated to result from the implementation of these rule changes.*

REVENUE INCREASE/DECREASE	FY 21	FY 22	FY 23
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
<b>TOTAL</b>	0	0	0

\*Specify the particular fund being impacted

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

N/A

## FISCAL AND ECONOMIC IMPACT STATEMENT

### WORKSHEET

#### III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

*The proposed rule change to Chapter 27 will affect LASERS DROP participants who have retired, changing when they must begin taking a Required Minimum Distribution ("RMD"). The new requirement is that a DROP retiree must withdraw annually starting with the year that he or she reaches 72 (70 ½ if they reach 70 ½ before January 1, 2020), if later, the year in which he or she retires.*

*LASERS DROP participants who have retired are already bound by the amended age requirement set out in the SECURE Act. The change to LAC 58:1.2713 must be made to conform to that Act. No costs or savings are anticipated from the rule amendment as the subject matter is already covered by federal statutory law.*

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

*The proposed rule change will have no foreseeable impact on receipts or income to any persons or non-governmental groups affected as it merely complies with already existing federal law.*

#### IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

*No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule change.*

## **NOTICE OF INTENT**

**Department of the Treasury**  
**Board of Trustees of the Louisiana State Employees' Retirement System**  
Part I. Louisiana State Employees' Retirement System  
DROP Program  
(LAC 58:I.2713)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes amendment of a provision in Chapter 27 of Part I of LAC Title 58. The proposed rule change is required to comply with changes in federal law made by the Secure Act, which became law in December of 2019. The Act changed the time when a Required Minimum Distribution ("RMD") must be made from Deferred Option Retirement Plan ("DROP") accounts of LASERS retirees. The age was moved from age 70 ½ to age 72. Section 2713 must be amended to conform to that change. The proposed rule change complies with and is enabled by R.S. 11:515.

### **Family Impact Statement**

The proposed Rule repeal is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 49:972.

### **Poverty Impact Statement**

The proposed rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

### **Small Business Statement**

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in R.S. 49:978.

### **Provider Impact Statement**

The proposed rule is not anticipated to have an impact on providers of services funded by the state as defined by HCR 170 of the 2014 Regular Legislative Session.

### **Public Comments**

Interested persons may submit written comments on the proposed changes until 4:30 p.m. October 10, 2020 to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

  
Cindy Rougeou, Executive Director

Chapter 27. DROP Program

Subchapter C. Withdrawal

**§2713. Time for Disbursement**

A.-B. ...

C. When a retiree reaches age 72, mandatory annual distributions shall begin in accordance with IRS regulations. The amount of the distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006), LR 35:2476 (November 2009), LR 46: .



## Chapter 27. DROP Program

### Subchapter C. Withdrawal

#### **§2713. Time for Disbursement**

A.-B. ...

C. When a retiree reaches age ~~70 1/2~~ **72**, mandatory annual distributions shall begin in accordance with IRS regulations. The amount of the distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

D.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:515.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006), LR 35:2476 (November 2009).

provided to LASERS, in writing, no later than November 15 of that year.

4. Delayed Withdrawal. The participant may choose not to withdraw the DROP account until some later date; however, the account must be disbursed within the time period shown in §2713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2465 (December 1999).

**§2713. Time for Disbursement**

A. The DROP account must be totally disbursed within the expected lifetime of the participant in accordance with federal laws. The expected lifetime is determined based on the age of the participant on the date of termination. All funds from the DROP account must be withdrawn in accordance with the Internal Revenue Services Guidelines.

B. Disbursements from the DROP accounts shall be made on the first day of each month; if the first is a weekend or holiday, the disbursement shall be made on the following workday.

C. When a retiree reaches age 70 1/2, mandatory annual distributions shall begin in accordance with IRS regulations. The amount of the distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

D. Requested withdrawals from DROP accounts which would leave a balance in that account of \$500 or less shall be processed as a request for disbursement of the entire balance. All such withdrawal requests shall result in the closing of the account. LASERS may, at its option, conduct audits to identify DROP accounts with a balance of \$500 or less and may disburse the entire amount to the person in whose name the account exists or to their beneficiary after giving notice of at least 30 days prior to disbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006), LR 35:2476 (November 2009).

**§2715. Interest**

A. Interest shall not be credited to a participant's subaccount during the period of participation and shall be based on the balance of the account at the end of each month. All amounts which remain credited to the individual's subaccount after termination of participation in the plan, which is not transferred to a self-directed subaccount under R.S. 11:451.1, shall be credited with interest at the end of each plan year at a rate equal to the realized return on the system's portfolio for that plan year as certified by the system actuary in his actuarial report, less 1/2 of 1 percent.

B. Plan year shall mean fiscal year. The actual posting of interest shall not be performed until the system actuary's report is approved by the Public Retirement Systems Actuarial Committee.

C. Interest shall not be paid on funds transferring to the Self-Directed Plan. DROP participants who are vested under LAC 58:I.4103 who choose to transfer their funds to the SDP shall not be paid DROP interest under this Section beginning on the date LASERS receives the participant's request for transfer. DROP participants who were not vested under LAC 58:I.4103 shall not be paid DROP interest under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 31:946 (April 2005), LR 32:1070 (June 2006), LR 35:2476 (November 2009).

**§2717. Changes in Withdrawal**

A. The type of withdrawal or the amount may be changed upon written notice. Requests for change received in the office of LASERS by the fifteenth of one month shall be effective the following month.

B. The participant must indicate whether federal income taxes should be withheld from the amount disbursed. The tax instructions must be provided by the participant before a disbursement can be made.

C. The forms for selecting the method of disbursement and the tax instructions shall be provided to the participant at the time of termination, or upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

**Subchapter D. "New" DROP**

Editor's Note: To the extent that the above provisions are not impacted by the following Sections, they shall apply to the new DROP. Any of the above provisions which conflict with the following provisions under the new DROP, the following provisions shall control.

**§2719. Eligibility**

A. Members who become eligible for retirement on or after January 1, 1996 will only be eligible for the new DROP. Members who were eligible for retirement on or prior to December 31, 1995 will have the option of joining either DROP, unless they have been eligible for regular retirement in excess of three years and 60 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

**§2721. Participation in New DROP**

A. A member will be eligible for DROP as soon as he is eligible for retirement.

[United States Code Annotated](#)

[Title 26. Internal Revenue Code \(Refs & Annos\)](#)

[Subtitle A. Income Taxes \(Refs & Annos\)](#)

[Chapter 1. Normal Taxes and Surtaxes \(Refs & Annos\)](#)

[Subchapter D. Deferred Compensation, Etc. \(Refs & Annos\)](#)

[Part I. Pension, Profit-Sharing, Stock Bonus Plans, Etc. \(Refs & Annos\)](#)

[Subpart A. General Rule \(Refs & Annos\)](#)

26 U.S.C.A. § 401, I.R.C. § 401

§ 401. Qualified pension, profit-sharing, and stock bonus plans

Effective: March 27, 2020

[Currentness](#)

**(a) Requirements for qualification.**--A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section--

(1) if contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under [section 404\(a\)\(3\)\(B\)](#) (relating to deduction for contributions to profit-sharing and stock bonus plans), or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in [section 664\(g\)\(1\)](#)), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;

(2) if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries (but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in [section 401\(a\)](#) or the trust which is part of such plan is exempt from taxation under [section 501\(a\)](#), or the return of any withdrawal liability payment determined to be an overpayment within 6 months of such determination));

(3) if the plan of which such trust is a part satisfies the requirements of [section 410](#) (relating to minimum participation standards); and

(4) if the contributions or benefits provided under the plan do not discriminate in favor of highly compensated employees (within the meaning of [section 414\(q\)](#)). For purposes of this paragraph, there shall be excluded from consideration employees described in [section 410\(b\)\(3\)\(A\)](#) and (C).

**(5) Special rules relating to nondiscrimination requirements.--**

**(A) Salaried or clerical employees.--**A classification shall not be considered discriminatory within the meaning of paragraph (4) or [section 410\(b\)\(2\)\(A\)\(i\)](#) merely because it is limited to salaried or clerical employees.

**(B) Contributions and benefits may bear uniform relationship to compensation.--**A plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of, or on behalf of, the employees under the plan bear a uniform relationship to the compensation (within the meaning of [section 414\(s\)](#)) of such employees.

**(C) Certain disparity permitted.--**A plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of, or on behalf of, the employees under the plan favor highly compensated employees (as defined in [section 414\(q\)](#)) in the manner permitted under subsection (l).

**(D) Integrated defined benefit plan.--**

**(i) In general.--**A defined benefit plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the plan provides that the employer-derived accrued retirement benefit for any participant under the plan may not exceed the excess (if any) of--

**(I)** the participant's final pay with the employer, over

**(II)** the employer-derived retirement benefit created under Federal law attributable to service by the participant with the employer.

For purposes of this clause, the employer-derived retirement benefit created under Federal law shall be treated as accruing ratably over 35 years.

**(ii) Final pay.--**For purposes of this subparagraph, the participant's final pay is the compensation (as defined in [section 414\(q\)\(4\)](#)) paid to the participant by the employer for any year--

**(I)** which ends during the 5-year period ending with the year in which the participant separated from service for the employer, and

**(II)** for which the participant's total compensation from the employer was highest.

**(E) 2 or more plans treated as single plan.**--For purposes of determining whether 2 or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan--

**(i) Contributions.**--If the amount of contributions on behalf of the employees allowed as a deduction under [section 404](#) for the taxable year with respect to such plans, taken together, bears a uniform relationship to the compensation (within the meaning of [section 414\(s\)](#)) of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate.

**(ii) Benefits.**--If the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the difference in such rates.

**(F) Social security retirement age.**--For purposes of testing for discrimination under paragraph (4)--

**(i)** the social security retirement age (as defined in [section 415\(b\)\(8\)](#)) shall be treated as a uniform retirement age, and

**(ii)** subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).

**(G) Governmental plans.**--Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of [section 414\(d\)](#)).

**(6)** A plan shall be considered as meeting the requirements of paragraph (3) during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

**(7)** A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part satisfies the requirements of [section 411](#) (relating to minimum vesting standards).

**(8)** A trust forming part of a defined benefit plan shall not constitute a qualified trust under this section unless the plan provides that forfeitures must not be applied to increase the benefits any employee would otherwise receive under the plan.

**(9) Required distributions.--**

**(A) In general.--**A trust shall not constitute a qualified trust under this subsection unless the plan provides that the entire interest of each employee--

(i) will be distributed to such employee not later than the required beginning date, or

(ii) will be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life of such employee or over the lives of such employee and a designated beneficiary (or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary).

**(B) Required distribution where employee dies before entire interest is distributed.--**

**(i) Where distributions have begun under subparagraph (A)(ii).--**A trust shall not constitute a qualified trust under this section unless the plan provides that if--

(I) the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii), and

(II) the employee dies before his entire interest has been distributed to him,

the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used under subparagraph (A)(ii) as of the date of his death.

**(ii) 5-year rule for other cases.--**A trust shall not constitute a qualified trust under this section unless the plan provides that, if an employee dies before the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii), the entire interest of the employee will be distributed within 5 years after the death of such employee.

**(iii) Exception to 5-year rule for certain amounts payable over life of beneficiary.--**If--

(I) any portion of the employee's interest is payable to (or for the benefit of) a designated beneficiary,

(II) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

**(III)** such distributions begin not later than 1 year after the date of the employee's death or such later date as the Secretary may by regulations prescribe,

for purposes of clause (ii), the portion referred to in subclause (I) shall be treated as distributed on the date on which such distributions begin.

**(iv) Special rule for surviving spouse of employee.**--If the designated beneficiary referred to in clause (iii)(I) is the surviving spouse of the employee--

**(I)** the date on which the distributions are required to begin under clause (iii)(III) shall not be earlier than the date on which the employee would have attained age 72, and

**(II)** if the surviving spouse dies before the distributions to such spouse begin, this subparagraph shall be applied as if the surviving spouse were the employee.

**(C) Required beginning date.**--For purposes of this paragraph--

**(i) In general.**--The term "required beginning date" means April 1 of the calendar year following the later of--

**(I)** the calendar year in which the employee attains age 72, or

**(II)** the calendar year in which the employee retires.

**(ii) Exception.**--Subclause (II) of clause (i) shall not apply--

**(I)** except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in [section 416](#)) with respect to the plan year ending in the calendar year in which the employee attains age 72, or

**(II)** for purposes of [section 408\(a\)\(6\)](#) or [\(b\)\(3\)](#).