

May 2026

IRS Releases Guidance on Qualified Long-Term Care Distributions from Retirement Plans

On May 20, 2026, the Internal Revenue Service (IRS) released Notice 2026-33 (the Notice), providing guidance regarding long-term care distributions from defined contribution 401, 403(b) and governmental 457(b) plans to address a change made by the SECURE 2.0 Act of 2022. The SECURE 2.0 Act of 2022 amended the Internal Revenue Code to permit such plans to offer long-term care distributions, effective for distributions made after December 29, 2025. For these purposes, long-term care insurance is a contract for qualified long-term care services, a rider to a life insurance contract providing coverage in the event that the insured becomes chronically ill, or a rider to an insurance or annuity contract that covers long-term care services.

The Notice confirms that the decision to offer long-term care distributions is optional.

Permissible Distribution Amounts

If the plan provides for this distributable event, the long-term care distribution:

- is limited to the lesser of:
 - the amount paid by or assessed to the participant during the taxable year for long-term care coverage for the participant or the participant's spouse;
 - 10% of the participant's vested account balance under the plan; or
 - \$2,600 (in 2026 and subject to annual IRS cost of living adjustments).
- must be made from amounts that would otherwise be includible in the participant's gross income; and
- includes a long-term care premium statement provided by the issuer of long-term care coverage to the retirement plan as supporting documentation of the long-term care distribution.

Distribution Statement Requirements

The long-term care premium statement must include:

- the name and taxpayer identification number of the long-term care issuer;
- a statement that the coverage is certified long-term care insurance as defined in the Code;
- identification of the employee as the owner of the coverage, the individual covered, and the individual's relationship to the employee;
- premiums owed for the coverage for the calendar year; and
- a statement that the issuer has satisfied the Code's issuer disclosure statement requirement.

Reliance on Issuer's Representation

A plan administrator may rely on the issuer's representations that the coverage for the participant or participant's spouse is for certified long-term care insurance and that the issuer has met the disclosure statement requirements.

Tax Withholding and Reporting and Other Regulatory Requirements

A long-term care distribution to a participant is:

- reported by the payor on IRS Form 1099-R (*Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*);
- subject to 10% voluntary federal withholding rather than 20% federal withholding; and
- exempt from the IRS 10% premature distribution penalty tax (including a distribution for coverage of the participant's spouse), provided that the participant and their spouse do not file separate federal income tax returns.

A participant receiving a distribution that they then use to pay for long-term care coverage cannot claim the exemption from the IRS 10% premature distribution penalty tax. The IRS notes that the exemption is not available because the distributing plan was not provided with a long-term care-premium statement at the time of the participant's distribution request.

A long-term care distribution to a participant is not:

- a rollover eligible distribution;
- subject to the IRS Special Tax Notice; or
- repayable to the plan.

Related Plan Amendments

The Notice also extends the deadline for a nongovernmental/noncollectively bargained plan to amend its 401 or 403(b) plan to permit qualified long-term care distributions from December 31, 2026 to December 31, 2027.

However, the deadline to amend a plan for long-term care distributions remains unchanged for:

- 401 defined contribution collectively bargained plans: December 31, 2027; and
- 401, 403(b) and 457(b) plans sponsored by governmental employers: December 31, 2029.

Voya continues to monitor these and all legal developments impacting retirement plans.

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