

TaxBrief

Keeping you informed

RMD Update

New regulations impact some required minimum distributions

The Treasury Department and IRS recently finalized regulations to implement recent legislation that made significant changes to the tax treatment of certain distributions from qualified retirement plans. The final regulations largely adopted the IRS's controversial interpretation of the 10-year rule for required minimum distributions (RMDs) from retirement accounts inherited by non-eligible designated beneficiaries when the deceased had already begun taking their RMDs. The agencies also proposed several new regulations to address legislative changes to the RMD rules that were made after the finalized regulations were first proposed.

Non-eligible designated beneficiaries (non-EDBs) include most non-spouse beneficiaries more than 10 years younger than the deceased account owner who aren't their minor children (under age 21).

Which plans are affected?

The qualified retirement plans subject to the final and proposed regulations include:

- Traditional IRAs
- 401(k) plans
- 403(b) plans
- 57(b) plans

Qualified retirement plans also include IRA-based plans, such as simplified employee pension (SEP) IRAs, SIMPLE IRAs and SARSEPs.

Statute left unanswered questions

Congress included the 10-year distribution period in the 2019 *Setting Every Community Up for Retirement Enhancement Act* (SECURE Act). Under the rule, non-eligible designated beneficiaries (non-EDBs) of inherited qualified retirement accounts are required to distribute the entire balance of the inherited account by the end of the 10th year after the original account owner's death.

Unfortunately, the language of the statute did not address the timing of the distributions during the 10-year period. In 2022, Treasury and the IRS issued proposed regulations stating that, if the original account owner had been taking RMDs prior to their death, non-EDBs must continue taking RMDs "at least as rapidly" as the deceased individual was, and completely distribute the account by the end of the 10th year.

When the IRS proposed the regulations requiring annual RMDs by non-EDBs, some tax pros disagreed with the agency's reading of the statute. They wanted to allow taxpayers to time their distributions any way they wanted over the 10-year period — including taking a lump-sum distribution during the 10th year to minimize clients' tax bills or for other reasons. When the IRS sought comments on the proposed regulations, a number of interested parties objected to the new rule. Due to the number of objections,



some had hoped that the final regulations would soften the IRS's position with regard to annual RMDs by non-EDBs. However, the final regulations issued July 18 TD 10001 largely kept them in place.

Annual RMDs waived from 2021 to 2024

The new RMD rules were supposed to take effect for deaths after 2019. However, earlier this year, the IRS issued Notice 2024-35, waiving the requirement that non-EDBs take RMDs for 2024. The IRS had previously issued notices that waived the RMDs for 2021, 2022 and 2023. As a result of the notices, the annual RMD rule for non-EDBs does not apply until 2025. That means the new regulations for non-EDBs do not apply until next year.

However, even though non-EDBs were not required to take annual distributions prior to 2025, those years still count for the purposes of applying the 10-year rule. As a result, for account holders dying prior to 2024, the 10-year period the beneficiary must take distributions begins running the year after the account holder dies, not in 2025. For example, a non-EDB who inherited an IRA in 2021 from someone who was already taking RMDs would need to take annual RMDs beginning in 2025, and would need to fully deplete the inherited IRA by 2031.

Other RMD situations addressed

The finalized regulations cover 260 pages and provide guidance on interpreting many other rules included in the SECURE Act and follow-up legislation enacted in 2022 (usually referred to as SECURE 2.0). The final regulations include the following guidance:

- Specify that, in an employer plan, any portion of an account held in a designated Roth account (DRA) is not included when calculating the RMD for that year
- New rules for undistributed year-of-death RMDs
- Guidance for surviving spouses who initially elect to take RMDs under the 10-year rule, but later choose to roll over or treat the inherited account as their own
- Required documentation for eligible designated beneficiaries who are disabled or chronically ill

- Clarification of the rules for successor beneficiaries (the beneficiary of a beneficiary)
- New rules for trusts that are beneficiaries of retirement accounts

Newly proposed regulations

The IRS also issued new proposed regulations that address some SECURE 2.0 Act provisions not included in the new final regulations. Proposed regulations do not yet have the force of law and could be altered or removed entirely before becoming final. The proposed regulations offer the following guidance:

- Taxpayers born in 1959 must begin taking RMDs at age 73, not 75
- Guidance on the spousal election to be treated as an employee after the employee's death addressing:
 - Eligibility
 - When the election will be automatic
 - Calculating the RMD when the original owner died before or after their RMD beginning date
- When a portion of an employee's defined contribution plan is held in a DRA, distributions from the DRA do not count toward satisfying the employee's RMD from the plan

Additional questions or concerns?

If you have any questions about any of the items in this newsletter or any other tax matter that could impact you or your business, please feel free to contact us. We're here to help.