



IRS Extends RMD Waiver Relief (Again) for Certain IRA Beneficiaries

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On April 16, 2024, the IRS issued Notice 2024-35, extending the excess accumulations penalty waiver through 2024 to certain designated beneficiaries who have not taken annual RMDs as required during the 10-year required payout period.¹ This marks the fourth year the IRS has waived the penalty for failing to satisfy the annual RMD requirement. The IRS previously waived the tax for 2021-2023.^{2,3} These developments are significant for both you and your clients. Let's review what you need to know about why the waiver has been extended without a final resolution, who may be affected, and how you can help your impacted clients navigate the uncertainty with more insight into what the guidance means for them. While these rules apply to qualified retirement accounts, we will refer to IRAs throughout the article.

The Back Story that Created the Confusion

In 2019, The SECURE Act was signed into law under Division O of the larger Further Consolidated Appropriates Act.⁴ The largest retirement-related legislation enacted since 2006, two key provisions included increasing the required minimum distribution age and replacing the life expectancy "stretch" payout with a "10-year rule" for most non-spousal beneficiaries.

The SECURE Act required that the entire interest of a deceased owner's IRA be distributed to the designated beneficiary (DB) within ten years after the owner's death. No distinction was made within the Act that the 10-year rule would apply differently if the IRA owner died before or after his/her required beginning date. Only one RMD was required – by 12/31 containing the 10th anniversary of the IRA owner's death.⁵

In February 2022, the Treasury issued proposed regulations to update the required minimum distribution requirements under the SECURE Act. However, the regulations surprised many by stating that designated beneficiaries of IRA owners who died after their required beginning date (RBD) must comply with the 10-year rule but must continue annual RMDs in years one through nine. In other words, once RMDs have begun to the IRA owner, they must continue to the beneficiary or successor beneficiary, in what has long been referred to as the "at least as rapidly" rule.⁶ In other words, once an IRA owner begins annual RMDs, the beneficiary cannot stop taking annual withdrawals after the IRA owner's death.

The conflicting guidance between the SECURE Act and the proposed regulations was met with confusion by impacted beneficiaries and harsh criticism from practitioners; they argued that many

beneficiaries may have failed to take required distributions based on a good faith interpretation of the 10-year rule as described under SECURE.

Recognizing the confusion, the IRS issued a series of Notices waiving the excess accumulation penalty for beneficiaries who failed to satisfy the RMD requirements outlined in the proposed regulations.

Which Beneficiaries Are Impacted?

Only designated beneficiaries (or a successor beneficiary of an eligible designated beneficiary) of IRA owners who died after their required beginning date between 2020 and 2023 are impacted by the RMD waivers. The required beginning date is April 1st of the calendar year following the year that the IRA owner reaches their applicable RMD age.

Which Beneficiaries Can Disregard the Waiver Notices?

This notice does not affect designated beneficiaries of Traditional IRA owners who died before their required beginning date and DBs of Roth IRA owners. While subject to the 10-year rule, these DBs do not have an annual RMD requirement in years one through nine. The notice only applies to designated beneficiaries of decedents already subject to RMDs. The waiver notice also does not apply to eligible designated beneficiaries (EDBs) or non-designated beneficiaries of decedents who died before or after their required beginning date.

Penalty Waiver is NOT the Same as RMD Waiver

Impacted beneficiaries who failed to take annual RMDs during the last three years and again in 2024 have been granted waivers of the excess accumulation penalty. The SECURE 2.0 Act reduced the steep 50% penalty to 25%, effective in 2023 and beyond, and as low as 10% if timely corrected.⁷ The penalty waiver is different from the IRS granting an RMD waiver. For example,

in 2020, the CARES Act waived RMDs for all retirement account owners and beneficiaries of those accounts; beneficiaries subject to the 5-rule rule were permitted to disregard 2020 and extend the 5-year period for one more year.⁸ The current IRS Notices waiving excise taxes for failure to satisfy the RMD did not extend the 10-year period, a critical point that your affected clients should understand. It is unclear whether designated beneficiaries and successor beneficiaries who did not take their 2021, 2022, or 2023 life expectancy payments or choose not to take the 2024 RMD will be required to take those payments in what remains of the 10-year distribution period.

Will RMDs Be Required or Not for Beneficiaries of Decedents Who Die After Their RBD?

The transition relief still leaves consumers and their advisors questioning whether RMDs are required for beneficiary clients subject to the 10-year rule of a deceased IRA owner subject to RMDs. Absent final regulations, the proposed RMD regulations should be relied on as substantial authority and a good indicator of the Treasury's interpretation of the law. From a tax planning standpoint, spreading the tax liability over ten years may be beneficial to avoid a steep tax bill in the 10th year, whether required or not.

Your Next Steps

As a financial professional, educating and guiding your clients on these IRS developments that may impact their retirement planning strategies is crucial. You should collaborate with your clients' tax advisors and take essential steps to help your clients understand the consequences of the IRS's rulings.

- 1. Explain the impact:** It is essential to clearly illustrate how the waiver affects your clients' Required Minimum Distributions (RMDs) requirements and future tax liabilities.

- 2. Update Financial Plans:** The waiver may require updating financial plans to accommodate the extended relief period, should clients choose not to take the RMD due to the waiver.
- 3. Clarify Tax Implications:** You and your client's tax advisor should help your client understand the tax implications of the waiver. It is important to explore the impact of skipping the RMD on the overall well-being of their retirement income strategy.
- 4. Monitor Further Guidance:** Keep updated with any further IRS notices or rule changes that could affect your clients' retirement plans.
- 5. Waiver Has Not Extended the Tenth Year:** Remind your clients that, while they will not face a penalty for failing to satisfy RMD requirements through 2024, they must abide by the original 10-year period counted from the year after the IRA owner died, which could squeeze taxable inherited dollars into fewer tax years.
- 6. Share the Consumer Guides:** Share Our Lifetime RMD and Post-Death IRA Beneficiary Guides with your clients to help them better understand and navigate the rules that pertain to their situations.

Sources:

¹<https://www.irs.gov/pub/irs-drop/n-24-35.pdf>

²<https://www.irs.gov/pub/irs-drop/n-22-53.pdf>

³<https://www.irs.gov/pub/irs-drop/n-23-54.pdf>

⁴<https://www.congress.gov/bill/116th-congress/house-bill/1865/text>

⁵H.R. 1865 Division O: Title IV Revenue Provisions Sec. 401

⁶<https://www.federalregister.gov/documents/2022/02/24/2022-02522/required-minimum-distributions-Section-3-Distributions-After-Employee's-Death>.

⁷<https://www.irs.gov/retirement-plans/retirement-plan-and-ira-required-minimum-distributions-faqs> Q8.

⁸<https://www.irs.gov/newsroom/coronavirus-relief-for-retirement-plans-and-iras#:~:text=Information for Individuals>