

CHIEF INVESTMENT OFFICE

Tax Alert 2023-04

IRS Again Provides Relief for Required Minimum Distributions for Certain Beneficiaries

July 2023

OVERVIEW

On July 14, 2023, the Internal Revenue Service (IRS) provided taxpayers with important guidance regarding required minimum distributions (RMDs) from retirement plans and IRAs. The guidance, issued in Notice 2023-54, provides relief with respect to certain provisions of the required minimum distribution rules that Congress changed as part of the SECURE Act and the SECURE 2.0 Act. The Notice:

- Extends for one year (through 2023) the relief the IRS previously provided in Notice 2022-53 regarding (1) the effective date of pending final RMD regulations and (2) the IRS interpretation of the “10-year rule” outlined in proposed RMD regulations.
- Provides relief under the rollover rules for certain distributions made in 2023 that were incorrectly characterized as RMDs as a result of the change that SECURE 2.0 made to the “required beginning date” for commencing RMDs.

Extension of Relief Originally Granted in 2022 Notice

The Notice provides guidance related to certain specified RMDs for 2023. It also announces that the final regulations that the IRS intends to issue related to RMDs will apply for purposes of determining RMDs no earlier than 2024. Current tax laws provide complex rules for minimum distributions from retirement plans and IRAs during the life of the participant and after such person’s death.

Final RMD regulations—The Notice states that the pending RMD regulations will apply for calendar years beginning **no earlier than 2024**.

10-year rule—The Notice provides a one-year extension (through 2023) of the relief in the 2022 Notice relating to the IRS’ interpretation of the 10-year rule under the SECURE Act. The IRS, in its 2022 proposed RMD regulations, interpreted the 10-year rule as requiring distributions to continue throughout the 10-year period (1) for certain beneficiaries (e.g., adult children) if the employee dies on or after their RBD, because the “at-least-as-rapidly” rule applies in addition to the 10-year rule in such case, and (2) following the death of an “eligible designated beneficiary” (EDB) (e.g., a surviving spouse) who is “stretching” the benefits they inherited from an employee who died before their RBD. Many taxpayers thought no distributions would be required during the 10-year period, regardless of when or how the 10-year rule is triggered.

In the 2022 Notice, the IRS provided relief for taxpayers who did not interpret the 10-year rule as applying for 2021 or 2022. In the 2022 Notice, the IRS concluded that to the extent a taxpayer failed to take a “specified RMD,” the IRS would not impose a penalty

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AUTHORED BY:

National Wealth Strategies,
Chief Investment Office

that otherwise applies to RMD failures.¹ ***The new Notice extends this same relief to taxpayers (and plans) that adopted such an interpretation of the 10-year rule for 2023 and therefore the IRS will not assert a penalty for failing to take a specified RMD through the end of 2023.***

Not All RMDs are Exempt from Penalties. Not all RMDs are covered by the Notice; only “specified RMDs” are covered. A “specified RMD” is any distribution that, under the 2022 proposed regulations’ interpretation of the 10-year rule, would be required to be made in 2021, 2022, or 2023 with respect to individuals described below:

- **Beneficiaries of deceased employees**—A designated beneficiary of an employee (including an IRA owner) if (1) the employee died in 2020, 2021, **or 2022** and on or after the employee’s RBD, and (2) the designated beneficiary is not “using the lifetime or life expectancy payments exception.”
- **Beneficiaries of deceased eligible designated beneficiaries**—A beneficiary of an eligible designated beneficiary if (i) the eligible designated beneficiary died in 2020, 2021, or 2022, and (ii) that eligible designated beneficiary was “using the lifetime or life expectancy payments exception (i.e., the “stretch” exception).²

Relief Relating to the “Required Beginning Date”

The SECURE 2.0 Act changed the definition of “required beginning date” to reference the age of the plan participant /IRA owner, which is now age 73 (as of January 1, 2023) if such individual was born in 1951 (or later) and therefore would attain age 72 in

¹ If the amount distributed during a year to a payee under a retirement plan is less than that year’s required minimum distribution, then a penalty is imposed on the payee. For taxable years beginning after December 29, 2022, the penalty is equal to 25 percent of the amount by which the required distribution for a year exceeds the amount actually distributed in that year. If a failure to take a required distribution is corrected by the end of the correction window (generally, the end of the second year that begins after the year of the missed required minimum distribution), the penalty is reduced from 25 percent to 10 percent.

² For this purpose, an EDB includes a designated beneficiary who is treated as an EDB pursuant to section 401(b)(5) of the SECURE Act. That section provides that if an employee dies before the effective date of the SECURE Act (generally 1/1/2020, but two years later for governmental and collectively-bargained plans), and their designated beneficiary dies on or after that date, the beneficiary is treated as an EDB so that the 10-year rule applies upon their death. Thus, the Notice’s relief applies in cases where the successor to that deceased beneficiary failed to take an RMD in 2021, 2022, **or 2023**.

2023 (or later). For instance, if such individual was born in 1951, their RBD is April 1, 2025, rather than April 1, 2024 as under prior law and the first distribution made to that person in 2024 will be treated as an RMD.

The Notice provides relief with respect to distributions from retirement plans and IRAs made to individuals born in 1951 that were mischaracterized as RMDs, but are not actually RMDs as a result of the change to the required beginning date. The Notice provides the following relief:

Indirect rollovers from employer plans—The Notice extends the usual 60-day deadline for completing rollovers from employer plans with respect to any distributions described above. ***The new deadline is September 30, 2023.***

Example: If a participant who was born in 1951 received a single-sum distribution in January 2023, part of which was treated as ineligible for rollover because it was mischaracterized as an RMD, that participant will have until September 30, 2023 to roll over that mischaracterized part of the distribution.

Indirect rollovers from IRAs—The Notice also provides IRA owners (or surviving spouses) with an extension of the 60-day rollover deadline with respect to distributions from IRAs: the new deadline being September 30, 2023. The relief from the 60-day rollover rule applies to such distributions made between January 1, 2023 and July 31, 2023. Presumably, mischaracterized RMDs made after July 31 could still be rolled over, but subject to the usual 60-day rule.

The Notice also waives the one-rollover-per-year limit on IRA rollovers for any amount described above, meaning the individual gets the benefit of the extension even if they previously rolled over other IRA distributions within the prior 12 months. However, any rollover of amounts described in the Notice will trigger the one-rollover-per-year limit for any subsequent IRA distributions that occur in the ensuing 12 months. The individual could still make a direct trustee-to-trustee transfer without violating the one-rollover-per-year rule.

— National Wealth Strategies, Chief Investment Office

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