

April 2024

IRS Notice 2024-35 Extends Transitional Relief for Certain Required Minimum Distributions

On April 16, 2024, the Internal Revenue Service (“IRS”) released Notice 2024-35 that extended existing relief through 2024 for certain beneficiaries taking RMDs over a 10-year period following the death of a participant/IRA owner who had already commenced RMDs.

According to Notice 2024-35, the Department of the Treasury (“Treasury”) and IRS intend to issue final RMD regulations that “are anticipated to apply for determining RMDs for calendar years beginning on or after January 1, 2025.”

Background

Modification to RMD Payment Period for Certain Beneficiaries

The Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE”) narrowed the circumstances under which a beneficiary can extend RMDs over their life expectancy. Under SECURE, that option is limited to a beneficiary who is an Eligible Designated Beneficiary (“EDB”). SECURE defines an EDB as an individual named as a beneficiary by the participant/IRA owner and who is:

- the surviving spouse of the participant/IRA owner;
- a child of the participant/IRA owner who has not reached age 21;
- a disabled individual;
- an individual who is chronically ill; or
- an individual who is not more than 10 years younger than the participant/IRA owner.

Any other individual named as beneficiary by the participant/IRA owner is a “designated beneficiary.” As modified by SECURE, a designated beneficiary satisfies RMD requirements by taking a full distribution of the deceased participant/IRA owner’s account by December 31 of the year containing the 10th anniversary of the death of the participant/IRA owner.

In February 2022, Treasury and IRS issued proposed RMD regulations that, among other matters, address how a designated beneficiary satisfies the 10-year period if the participant/IRA owner was already subject to RMD requirements at the time of their death as follows:

- A designated beneficiary must take an RMD at least annually over the 10-year period following the death of the participant under the Internal Revenue Code’s “at least as rapidly” rule; and
- Once a child EDB of the deceased participant/IRA owner attains age 21, that child must take an RMD at least annually over the 10-year period starting in the year that that child attains age 21.

The proposed regulations also provide that, following the death of an EDB who is taking RMDs over their life expectancy, the beneficiary of that deceased EDB must continue to take an RMD at least annually over the 10-year period following the death of the EDB.

This IRS position prompted comments from benefits practitioners who had interpreted SECURE as no longer providing that such a beneficiary must take an annual RMD under the pre-SECURE “at least as rapidly” rule, as long as the beneficiary took a full distribution of the account by the year containing the 10th anniversary of the death of the participant/IRA owner.

History of Relief Provided for Designated Beneficiaries Under the 10-Year Rule

2022 – In October 2022, the IRS issued Notice 2022-53 to provide relief for 2021 and 2022 RMDs to designated beneficiaries under a defined contribution plan or IRA operating under the 10-year rule who did not take an annual RMD before the year containing the 10th anniversary of the participant/IRA owner's death. Notice 2022-53 also contained similar relief for a minor child EDB reaching age 21 and for a beneficiary of a deceased EDB. In addition, Notice 2022-53 waived imposition of the IRS 50% excise tax that otherwise would apply to failures to take a timely 2021 or 2022 RMD in such circumstances.

2023 – In July 2023, the IRS issued Notice 2023-54, which extended the relief described above to 2023 RMDs.

Extended Relief Under Notice 2024-35

Under the extended relief, individuals described below will not be deemed to have failed to satisfy the annual RMD requirements applicable to the 10-year rule:

- a designated beneficiary who did not take an annual RMD following the death of the participant/IRA owner in 2021, 2022, 2023, or 2024; and
- a child who was a EDB of the deceased participant/IRA owner if the child did not take an annual RMD in 2021, 2022, 2023, or 2024 upon attaining age 21; and
- a beneficiary of an EDB if that beneficiary did not take an annual RMD following that EDB's death in 2021, 2022, 2023, or 2024.

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