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RMD Relief for Certain Post-Death Distributions

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Required Minimum Distribution Relief for Certain Post-Death Distributions Otherwise Due in 2021 and 2022

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), amended the required minimum distribution (RMD) rules to eliminate the life expectancy distribution option for most of non-spouse designated beneficiaries and shorten the distribution period, in most cases, from life expectancy to 10-years.

Under the prior rule, the designated beneficiary of a deceased participant who had died after the required beginning date had to continue receiving RMDs over the decedent's remaining life expectancy in order to complete the distribution of the participant's account. With the passage of the SECURE Act there was some confusion as to whether the designated beneficiary was required to continue receiving distributions at the level of the participant, but complete the withdrawal by the end of the 10-year period, or, as had been the case with the prior rule, complete the distribution in any other manner as long as the account was completely distributed by the end of the 10th year.

In February 2022, the IRS issued proposed regulations confirming the IRS' position that the beneficiaries subject to the 10-year distribution rule MUST take annual RMDs beginning in the first calendar year after the participant's death and each subsequent year, provided the participant died on or after his/her beginning required date. The RMDs from the date of death until the 10th calendar year after Participant's death will be based on the designated beneficiary's life expectancy, in most cases. The final remaining balance of the decedent's account must be distributed no later than the 10th year after the death of the participant.

Because of the delay between the passage of the SECURE Act and the timing of the proposed regulations and the divergence of guidance regarding the manner in which the 10-year rule would be applied to the post-death RMDs, the IRS issued Notice 2022-53 on October 7, 2022 to provide some relief.

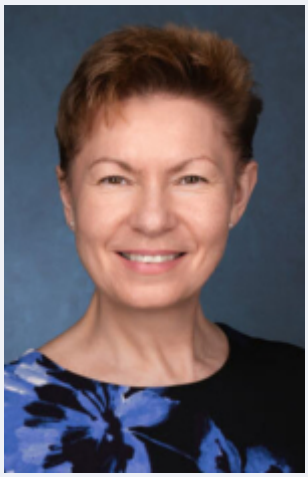
Notice 2022-53 affords relief to plans and beneficiaries with respect to the failure to take minimum distributions in 2021 and 2022 attributable to participants who had reached their required beginning date and died in 2020 and 2021 respectively.

The relief includes the following:

- The applicable date of the regulations is delayed until the 2023 distribution year.
- A plan will not be treated as having failed to satisfy the RMD rules by virtue of failing to make an RMD to a beneficiary in 2021 or 2022 on account of a participant who had reached the participant's required beginning date prior to the participant's death in 2020 or 2021 (or if such plan complied in good faith with the SECURE requirements).

- The beneficiary will not be subject to the 50% excise tax for failing to take an RMD in 2021 or 2022. A beneficiary who already paid the excise tax for a missed RMD in 2021 and qualifies under Notice 2022-53 regarding these “specified” RMDs, may apply for a refund.

For additional information regarding qualified plan distributions, please contact Nadia Havard:



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