

IRS RELEASES FINAL REGULATIONS

Finally Final: Highlights of SECURE Act Final Regulations

After only four years, we have the highly anticipated final regulations to clarify provisions of the SECURE (Setting Every Community Up for Retirement Enhancement) Act

RMD (Required Minimum Distribution) Rules for Some IRA Beneficiaries

One of the most awaited provisions surrounds the distribution of the 10-year rule for certain IRA beneficiaries.

For non-eligible designated beneficiaries (NEDBs – most non-spouse beneficiaries), the entirety of the account must be distributed by December 31st of the 10th year following the original owner's death, with a twist!

- If the original owner died **before** their required begin date (RBD – April 1 of the year after they reach their RMD applicable age), there are no RMDs required during the 10-year period.
- If the original owner died **after** their RBD, the beneficiary must take RMDs based on their *own* life expectancy in years 1 through 9 with the final distribution required by the end of the 10-year period.

Roth IRA Beneficiaries

If you inherit a Roth IRA, the original owner is *always* treated as having died before their RBD.

So, what does this look like?

- For non-designated beneficiaries (NDBs) – which are not people – who inherit a Roth IRA, they have until December 31st **five** years following death of the original owner.

Pro Tip

It is worth noting that the new rules for RMDs first applies on or after **January 1, 2025** — but that is not to say RMDs should be delayed as the 10-year clock continues ticking.

- For non-eligible designated beneficiaries (NEDBs) – most non-spouse beneficiaries – who inherit a Roth IRA have until December 31st **ten** years following death of the original owner.
- For eligible designated beneficiaries (EDBs) – those that can still elect a stretch IRA – who inherit a Roth IRA still must take distributions over their lifetime.

Successor IRA Beneficiaries

Successor beneficiaries are beneficiaries who inherited a previously inherited IRA from the original beneficiary. The successor beneficiary's payout option depends on when *both* the original owner and original beneficiary died.

If the original owner died before the SECURE Act's effective date of Jan 1, 2020:

- If the beneficiary *also* died before SECURE Act's effective date, the successor beneficiary can continue lifetime RMDs under the stretch IRA rules but based on the original beneficiary's life expectancy.
- If the beneficiary died after SECURE Act's effective date, the successor beneficiary continues RMDs based on the original beneficiary's life expectancy **and** must distribute the entire account under the 10-year rule.

If the original owner died after the SECURE Act's effective date of Jan 1, 2020:

- If the original beneficiary was an EDB, the successor beneficiary is subject to the 10-year rule.¹
- If the original beneficiary was an NEDB, the successor beneficiary finishes out the remaining period left under the original beneficiary's 10-year period.¹

Year-of-Death RMD Aggregation Rules

RMDs due in the year-of-death for the original owner still must be satisfied but can now be satisfied in any proportion.

- If the original owner and beneficiaries are the same, the beneficiaries can aggregate RMDs from one or multiple accounts to satisfy the total. (I.e., Bonnie needs to take a distribution, but Clyde doesn't, the RMD can be satisfied by Bonnie alone.)
- If the original owner is the same but names different beneficiaries for different accounts – the RMD will be proportional based on the value of each account.

¹ Whether the successor beneficiary is subject to RMDs during the 10-year period is still based on whether the original owner died before or after their RBD.

- **For example:**
IRA #1: 80% of RMD due by Bonnie and Clyde
IRA #2: 20% of RMD due by Tom and Jerry
They can still take any amounts in any proportion to satisfy each proportional RMD.

RMD Penalty Waivers

The final regulations offered more flexibility for beneficiaries who missed RMDs.

- If a normal RMD is not satisfied by year-end, a 25% penalty – or 10% penalty, if timely corrected – applies which was reduced under Secure Act 2.0 of 2022 from the previous 50% penalty rate.
- Beneficiaries subject to RMDs can now have the penalty automatically waived by taking the distribution by December 31st of year after death.

Trusts as IRA Beneficiaries

Careful consideration still should be taken when naming trusts as IRA beneficiaries, but there is more flexibility within the final regulations.

Trusts that qualify as both see-through trusts² and conduit trusts³ have the most flexibility in determining IRA payout options for the identifiable beneficiaries. The new provisions allow separate IRA plan payout options to be established through the creation of sub-trusts if specified in the trust document.

- Before the final regulations, if a trust named different classes of beneficiaries for first distribution of the IRA assets (i.e., 2 NEDBs and 1 EDB), *all* beneficiaries would be required to distribute the account under the shortest payout period available.
- Now, if the trust named different classes of beneficiaries for first distribution of the IRA assets (i.e., 2 NEDBs and 1 EDB), and if the document specifies the creation of sub-trusts for each beneficiary, they can be separated and treated as separate accounts with different payout periods. (In this example, allowing the EDB to stretch the IRA.)

² See-through trusts as defined as trusts that a) are valid under state law b) become irrevocable upon death of the IRA owner c) have identifiable beneficiaries and d) are provided to the IRA custodian by 10/31 of the year following death.

³ Conduit trusts pass all assets and distributions directly to the beneficiary and do not contain provisions that require the trust to exercise discretion over when to pass assets and distributions to the beneficiary of the trust.

An annuity is intended to be a long-term, tax-deferred retirement vehicle. Earnings are taxable as ordinary income when distributed, and if withdrawn before age 59½, may be subject to a 10% federal tax penalty. If the annuity will fund an IRA or other tax qualified plan, the tax deferral feature offers no additional value. Qualified distributions from a Roth IRA are generally excluded from gross income, but taxes and penalties may apply to non-qualified distributions. Please consult a tax advisor for specific information. There are charges and expenses associated with annuities, such as surrender charges (deferred sales charges) for early withdrawals.

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