

Inherited IRA Rules After SECURE Act

Quick take:

- The SECURE Act established new distribution rules for qualified retirement accounts inherited from owners who passed on or after January 1, 2020.
- In 2022, the IRS issued proposed regulations interpreting the SECURE Act; however, these regulations have not yet been finalized.
- The most controversial aspect of the proposed regulations is a proposal that those subject to the “10-year rule” will be divided into two categories:
 - 1) For those subject to the 10-year rule, if the original account owner had reached their “Required Beginning Date” (i.e., the original owner was required to take RMDs), the beneficiary would be required to take RMDs in years 1-9 and fully deplete the IRA by the end of year 10.
 - 2) For those subject to the 10-year rule, if the account owner had not reached their “Required Beginning Date” (i.e., the original owner was not required to take RMDs), the beneficiary would not be required to take RMDs in years 1-9 but must fully deplete the IRA by the end of year 10.
- Given that the proposed regulations are not yet finalized, the IRS has indicated that it will not assess penalties against IRA beneficiaries subject to the 10-year rule who have not taken required distributions from the inherited IRA in 2021, 2022, and 2023.

The SECURE Act was signed into law in December 2019, marking dramatic changes to the retirement landscape. Among the more impactful changes was the change to when beneficiaries take distributions from inherited retirement accounts. Prior to the SECURE Act, beneficiaries of IRA, 401(k) and other qualified retirement accounts were broken down into two categories:

1. Designated Beneficiaries: Prior to SECURE Act, designated beneficiaries of inherited retirement accounts could typically begin taking “Required Minimum Distributions” the year after the passing of the account owner based upon the lifetime of the beneficiary. This regime allowed beneficiaries to stretch out distributions over their lifetimes.
2. Non-Designated Beneficiaries: Non-Designated beneficiaries (most commonly estates, certain trusts, and charities), were required to fully deplete the retirement account by December 31 of the year including the 5th anniversary of the owner’s passing.

The SECURE Act changed the distribution requirements for many inherited retirement accounts. For deaths on or after January 1, 2020, the law now breaks IRA beneficiaries into 3 categories, with separate distributions between the following categories: (1) Eligible Designated Beneficiaries; (2) Non-Eligible Designated Beneficiaries; and (3) Non-Designated Beneficiaries. Essentially, the SECURE Act split the “Designated Beneficiary” classification into two, and no longer allowing some beneficiaries to stretch distributions out over the course of their entire lives. For Non-Eligible Designated Beneficiaries, the new

rules require that the entire retirement account be depleted by December 31 of the year including the 10th anniversary of the account owner / decedent's passing. The new beneficiary designation categories are outlined in the following chart:

Retirement Account Beneficiary Designations After SECURE Act		
Beneficiary Category	Examples	Distribution Requirements
Eligible Designated Beneficiaries	1. Spouse 2. Beneficiaries not more than 10 years younger than the original account owner (e.g., friends, siblings). 3. Chronically ill beneficiaries 4. Disabled Beneficiaries 5. Minor Children¹ 6. Certain "See Through" Trusts with Eligible Designated Beneficiaries.	These beneficiaries may continue to utilize stretch provisions.
Non-Eligible Designated Beneficiaries	1. Non-spouse individuals who do not fit into any of the "Eligible Designated Beneficiary" categories above. 2. Certain "See Through" Trusts with no Eligible Designated Beneficiaries.	These beneficiaries must fully deplete the retirement account by December 31 of the year including the 10 th anniversary of the owner's passing.
Non-Designated Beneficiaries	1. Estates 2. Some trusts 3. Charities	These beneficiaries must fully deplete the retirement account by December 31 of the year including the 5 th anniversary of the owner's passing.

IRS Issues Proposed Regulations – RMDs for 10-Year Rule?

On February 23, 2022, the IRS issued Proposed Regulations interpreting the SECURE Act. One important section of the proposed regulations involves the issue of Required Minimum Distributions within inherited IRA accounts. The IRS surprised many commentators² when it proposed that Non-Eligible Designated Beneficiaries (those subject to the 10-year rule) would *also* have to take Required Minimum Distributions in years 1-9 following the owner's death, only if the original owner had reached their

¹ Minor children are defined in the proposed regulations as those under 21 and may only stretch out distributions until 21, at which point their 10-year distribution period would begin.

² These proposed regulations are at odds with prior guidance in Publication 590-B, which indicated that RMDs would not be required of Non-Eligible Designated Beneficiaries.



“Required Beginning Date” (i.e., the beneficiary would have to take RMDs in years 1-9 if the original owner was taking RMDs at the time of their passing). If the original owner had not yet reached their Required Beginning Date and was not taking RMDs at the time of their passing, the beneficiary would not be required to take RMDs in years 1-9, but must still fully deplete the account by the end of year 10. It is important to note that these proposed regulations are not final, which has left many beneficiaries subject to this new “10-year rule” wondering whether they are required to take RMDs. Given the attention and scrutiny that this proposal has caused, it remains uncertain whether the RMD requirement for those subject to the 10-year rule will be included within the final regulations.

IRS Notice 2022-53: Limited Penalty Waivers In 2021 and 2022

In IRS Notice 2022-53, the IRS cleared up some of the confusion surrounding Required Minimum Distributions from Inherited IRA accounts. In short, the IRS provided that penalties will not be charged to individuals subject to the 10-year rule who fail to take RMD's from Inherited IRA accounts in 2021 or 2022. Practically speaking, this means that the RMD requirement outlined in the proposed regulations will begin in 2023, at the earliest.

For individuals who took distributions from Inherited IRA accounts based upon the proposed regulations, IRS Notice 2022-53 does not seem to open the door to depositing the money back into the account and having the distribution avoid taxation. Thus, for taxpayers who took distributions based upon the proposed regulations, these distributions will be included in taxable income.

IRS Notice 2023-54: Limited Penalty Waiver Extends Through 2023

In IRS Notice 2023-54, the IRS extended the relief granted in 2022 through 2023, as regulations are not expected to be finalized until 2024. For individuals subject to the 10-year rule under the SECURE Act, the IRS will not impose penalties for failure to take an RMD in 2023. Practically speaking, this means that the RMD requirement for the 10-year rule in the proposed regulations will begin in 2024, at the earliest.

Note that this relief is limited to Required Minimum Distributions from inherited IRAs to which the 10-year rule would apply. Therefore, surviving spouses, and those within 10 years of the original owner who are stretching distributions over their lifetime, as well as those who inherited IRAs prior to January 1, 2020 are still required to take RMDs in 2023.

The SECURE Act and its proposed regulations have caused stressful uncertainty for many individuals. Now more than ever, beneficiary designation planning is a critical aspect of financial planning. Contact your Summit advisor to learn more about your beneficiary designation options, or for any questions about your inherited retirement accounts.



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