

Publications

Additional Required Minimum Distribution Relief Following SECURE 2.0 Act Changes

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Last week, the IRS issued [Notice 2023-54](#) (“Notice”) that provides a variety of relief for both plan sponsors and IRA providers, along with participants/IRA owners and their beneficiaries, while we await the final Code section 401(a)(9) regulations (likely delayed due to SECURE 2.0 Act changes). The Notice provides much-needed 2023 required minimum distributions (“RMD”) relief by:

- Extending the effective date of the final RMD regulations (for all plan types) for another year – now not effective before the 2024 distribution calendar year;
- Providing rollover relief to plan sponsors and participants/IRA owners who were born in 1951 (as well as their surviving spouses) – which includes extending the rollover period through September 30, 2023; and
- Eliminating the need for 2023 RMD payments for beneficiaries under the combination of the 10-year rule and the “at least as rapidly” rule.

History

The new guidance is similar to prior relief granted under Notice 2020-51 ([IRS Guidance on 2020 Required Minimum Distribution Waivers and More](#)), which provided relief for the required beginning date change from age 70-1/2 to age 72, and Notice 2022-53 ([IRS Required Minimum Distribution \(“RMD”\) Relief for Beneficiaries for 2021 and 2022](#)) that provided relief for 2021 and 2022 RMD payments for non-eligible designated beneficiaries subject to the 10-year rule – i.e., not requiring the “at least as rapidly” payment.

The Relief

The relief can be divided into three parts.

1. Extended Effective Date of Regulations.

As the proposed RMD regulations were issued before the SECURE 2.0 Act, they need to be updated to reflect subsequent changes to the Code. Helpfully, the Notice delays the effective date, and now the final RMD regulations and related provisions are to apply no earlier than the 2024 distribution calendar year (instead of the 2023 plan year, as

previously announced in Notice 2022-53). This extension provides the IRS with the opportunity to ensure the guidance (and model amendments) take into account SECURE 2.0.

2. 2023 RMD Payments Made Between January 1 – July 31, 2023 to Participants who turned 72 in 2023.

The SECURE 2.0 Act changed the definition of “required beginning date” (“RBD”), and one of the effects of that change was that individuals who turned 72 in 2023 now have an RBD of April 1, 2025, as opposed to April 1, 2024 under prior law. Therefore, applicable solely to individuals who turn age 72 in 2023 (and their surviving spouses):

- Distributions made between January 1, 2023 and July 31, 2023, that would otherwise have been an RMD but for the change to the RBD rules, are not required to be treated as an eligible rollover distribution under Code sections 401(a)(31), 402(f), and 3405(c);
- The indirect rollover period for such distributions is extended through September 30, 2023; and
- Affected IRA owners are permitted to make such an indirect rollover even if they already rolled over a distribution within the last 12 months.

3. No 2023 RMD payments under the “at least as rapidly” rule for certain beneficiaries.

As discussed in our previous alerts cited above, the SECURE Act added a new 10-year rule that generally requires that, unless you are an “eligible designated beneficiary,” IRA or plan benefits must be paid out by the end of the 10th anniversary following the death of the participant/IRA owner. Many wondered how the 10-year rule would interact with the “at least as rapidly” rule under existing regulations. While the proposed regulations retained the “at least as rapidly” rule where a participant or IRA owner died on or after their RBD, given that the proposed RMD regulations have not yet been finalized, uncertainty remains. The IRS previously provided relief for 2021 and 2022 specified RMDs in Notice 2022-53. The Notice essentially extends that relief for 2023, providing that, for a specified RMD, as defined below, the plan sponsor will not be treated as failing to satisfy Code section 401(a)(9), and the beneficiary will not be subject to the 25% excise tax for failure to take a distribution.

A “specified RMD” is defined as follows:

Any distribution that, under the proposed regulations, would be required to be made pursuant to Code section 401(a)(9) in 2023 under a defined contribution plan or IRA that is subject to the rules of 401(a)(9)(H) for the year in which the participant/IRA owner (or designated beneficiary) died if that payment would be required to be made to:

- A designated beneficiary of a participant under the plan (or IRA owner) if: (1) the participant (or IRA owner) died in 2020, 2021, or 2022 and on or after the participant’s (or IRA owner’s) RBD, and (2) the designated beneficiary is not taking lifetime or life expectancy payments pursuant to section 401(a)(9)(B)(iii); or
- A beneficiary of an “eligible designated beneficiary” (including a designated beneficiary who is treated as an eligible designated beneficiary pursuant to section 401(b)(5) of the SECURE Act) if: (1) the eligible designated beneficiary died in 2020, 2021, or 2022, and (2) that eligible designated beneficiary was taking lifetime or life expectancy payments pursuant to section 401(a)(9)(B)(iii) of the Code.

Next Steps

As with the prior guidance, the Notice provides welcomed relief to plan and IRA sponsors and recordkeepers, and it allows for flexibility in implementing these provisions without triggering plan qualification issues or excise taxes for participants, IRA owners and beneficiaries.