

Publications

SECURE 2.0 Guidance – IRA Reporting Relief for 2023 RMDs

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[SECURE 2.0](#) followed in the footsteps of the Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE Act”) to further delay the required beginning date for required minimum distributions (“RMDs”), and IRA providers have been waiting for the IRS to issue guidance on statements that they were required to issue to IRA owners regarding the need to take 2023 RMDs. On March 7, the IRS issued [Notice 2023-23](#) to provide guidance on how IRA providers may comply with the new rules, as well as some relief to address non-compliance based on the late hour of the law change.

The law generally requires IRA providers to (1) report on Form 5498 if RMDs are required for the following year, and (2) provide a statement, by January 31 of each year, to those that must take an RMD for that year (e.g., under prior law, an IRA owner that turns 72 in such year). But SECURE 2.0, enacted at the very end of 2022, delayed the required beginning date for RMDs for IRA owners who attain age 72 after December 31, 2022, and age 73 before January 1, 2033. Under the new law, IRA owners who attain age 72 in 2023 (individuals born in 1951) will have an RMD required beginning date of April 1 of the calendar year following the calendar year in which the individual attains age 73 (that is, April 1, 2025). These IRA owners would have had an RMD for 2023 and a required beginning date of April 1, 2024 under prior law (as provided by the SECURE Act), which established the required beginning date for RMDs as April 1 of the calendar year following the calendar year in which IRA owners attained age 72.

In Notice 2023-23, the IRS clarified that:

- **RMD Statement.** The January 2023 RMD statement should not be sent to IRA owners who will attain age 72 in 2023. If the statement was issued for a participant where no 2023 RMD is required (e.g., an IRA owner who attains age 72 in 2023), the statement will not be considered incorrect if the IRA owner is notified by the financial institution no later than April 28, 2023 that no RMD is required for 2023.
- **2022 Form 5498 Reporting.** No RMD provisions should be reflected for IRA owners who turn age 72 in 2023 – IRA providers should leave boxes 11, 12a and 12b blank on the 2022 Form 5498.

- RMD Reminder. The IRS encourages all financial institutions, in communicating these RMD changes, to remind IRA owners who attained age 72 in 2022, and have not yet taken their 2022 RMDs, that they are still required to take those distributions by April 1, 2023.

GROOM INSIGHT: The IRS issued very similar guidance (Notice 2020-06) after the SECURE Act delayed the required beginning date for RMDs. Notably, while Notice 2020-06 indicated that the IRS and Treasury were considering what additional guidance should be provided with regard to issues raised by the RMD delay (including potential relief for 2020 payments that were mistakenly treated as RMD payments), Notice 2023-23 did not include an analogous statement with respect to SECURE 2.0. However, we note that the IRS subsequently issued Notice 2020-51 to provide transition relief for inadvertent 2020 RMDs, as we discussed in a [prior alert](#). Notice 2020-51 extended the 60-day indirect rollover period for RMDs that otherwise were not required by the SECURE Act (or the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act), and permitted the repayment of such RMDs to the distributing IRA, both through August 31, 2020. Under the transition relief, the RMD repayments were treated as rollover contributions, but were not subject to (1) the one rollover per 12-month period limitation under Code section 408(d)(3)(B), or (2) the restrictions on rollovers for nonspousal beneficiaries under Code section 408(d)(3)(C) for inherited IRAs. IRA providers (and IRA owners) should monitor future guidance to see if the IRS provides analogous relief for 2023 payments that are mistakenly treated as RMD payments.

Next Steps

IRA providers should review their RMD procedures and client communications for compliance, and consider distributing a reminder to affected participants that the law did not change for IRA owners who turned 72 in 2022 and that the April 1 deadline is approaching. In addition:

- Incorrect RMD Statement: If an incorrect statement was provided, the IRA provider should notify the IRA owner no later than April 28, 2023 that no RMD is required for 2023, and document the same.
- 2022 Form 5498 (due May 31, 2023):
 - For IRA owners who turn 72 in 2023 (born in 1951): The IRA provider should leave boxes 11, 12a, and 12b blank
 - For IRA owners who turned 72 in 2022, or before (born before 1951): IRA providers should check box 11, and may complete Box 12a and b.

We eagerly await additional SECURE 2.0 guidance, particularly for confirmation that RMD transition relief similar to that which the IRS made available under the SECURE Act will be available.

If you have any questions, please contact any of the authors listed herein or your regular Groom attorney.