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Publications

Traditional and Roth IRA Changes Under SECURE 2.0

ATTORNEYS & PROFESSIONALS

Elizabeth Thomas Dold
edold@groom.com
202-861-5406

Richard Matta

Louis T. Mazawey
lmazawey@groom.com
202-861-6608

PUBLISHED
03/09/2023

SOURCE
Groom Publication

SERVICES
Retirement Services
- IRAs/HSAs

Policy
- Retirement Services Advocacy

SECURE 2.0 has brought about changes to IRAs of all types. To help better understand these modifications, we examine the differences in the new laws governing traditional IRA and Roth IRA accounts under SECURE 2.0 against current law.

2023 Changes Affecting Required Minimum Distributions

Bill Section	Current Law	New Law
Sec. 107. Increase in age for required beginning date for mandatory distributions	As established by the 2019 SECURE Act, required minimum distributions ("RMDs") generally must begin by age 72. Prior to January 1, 2020, the age at which RMDs were required to begin was 70½.	Increases the RMD age to: (i) 73 for a person who attains age 72 after December 31, 2022 and age 73 before January 1, 2033, and (ii) 75 for an individual who attains age 74 after December 31, 2032.
Sec. 201. Remove required minimum distribution barriers for life annuities	All annuity payments must be nonincreasing with limited exceptions. One exception for annuity contracts purchased from insurance companies permits increases that meet an actuarial test. The current annuities actuarial test does not permit certain guarantees such as certain guaranteed annual increases, return of premium death benefits, and period certain guarantees for participating annuities.	Amends the RMD rules to relax these rules and permits commercial annuities that are issued in connection with any eligible retirement plan to provide additional types of payments, such as certain lump sum payments and annual payment increases at a rate less than 5% annually.
Sec. 204. Eliminating a penalty on partial annuitization	Current regulations provide that if a retirement account holds an annuity contract and other assets, the RMD is calculated by bifurcating the account into the annuity contracts (which follow defined benefit plan rules) and the other assets (which follow defined contribution plan rules). This approach can result in higher RMDs than if the account did not hold annuity contracts.	Directs the Secretary of the Treasury to update the applicable regulations as follows: tocalculate the RMD for a retirement account that holds annuity contracts and other assets, the employee may elect to have the RMD calculated by applying the defined contribution rules to the entire account. In performing that calculation, the account balance will include the value of the annuity contracts, and the payments from those annuity contracts will be applied toward satisfying the RMD.
Sec. 337. Modification of required minimum distribution rules for special needs trusts	Current law places limits on the ability of beneficiaries of defined contribution retirement plans and IRAs to receive lifetime distributions after the account owner's death. Special rules apply in the case of certain beneficiaries, such as those with a disability.	Clarifies that in the case of a special needs trust established for certain beneficiaries (*e.g.*, a beneficiary with a disability), the trust may provide for a charitable organization as the remainder beneficiary.
Sec. 302. Reduction in excise tax on certain accumulation	Existing law imposes an excise tax on an individual if the amount distributed to an individual during a taxable year is less than the RMD under the plan for that	Reduces the excise tax for failure to take RMDs from 50% of the shortfall to 25%. Further reduces the excise tax to 10% if the individual corrects the shortfall during a two-year correction window.

Bill Section	Current Law	New Law
s in qualified retirement plans	year. The excise tax is equal to 50% of the shortfall (that is, 50% of the amount by which the RMD exceeds the actual distribution). (The excise tax may be abated under a reasonable cause exception or through a VCP submission.)	
Sec. 313. Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations	The Code imposes excise taxes on excess contributions made to IRAs (Section 4973) and failures to distribute RMDs from plans and IRAs (Section 4974). The statute of limitations with respect to a tax liability for excess retirement contributions or accumulations generally starts to run within three years after the excise tax return (*e.g.*, Form 5329) is filed, but if such a return is never filed, the statute does not begin to run.	For purposes of any excise tax imposed on excess contributions or on certain accumulations in connection with an IRA (Code Section 4973 and 4974), the applicable return to start the statute of limitation now includes the income tax return filed by the person on whom the tax is imposed for the year in which the act (or failure to act) giving rise to the liability for such tax occurred. Therefore, the filing of Form 5329 should no longer be required to start the statute of limitations for these penalties. However, if the income tax return is used to start the running of the statute of limitation, the statute of limitations is six years rather than three years for Code Section 4973 excise tax. And this relief does not apply if the 4973 excise tax is due to acquiring property for less than fair market value. For a person not required to file a return for that year, the statute of limitations begins on the date that the return would have been required to be filed.
Sec. 307. One-time election for qualified charitable distribution (“QCD”) to split-interest entity; increase in qualified charitable distribution limitation	Under current law, certain charitable IRA distributions (called qualified charitable distributions) up to $100,000 are excluded from gross income of the individual. QCDs also count for minimum required distribution purposes.	Allows individuals to make a one-time election of up to $50,000 (indexed for inflation) for qualifying charitable distributions to certain split-interest entities, including charitable remainder annuity trusts, charitable remainder unitrusts, and charitable gift annuity. Indexes the $100,000 limit, and new, one-time $50,000 limit, to inflation for taxable years beginning after 2023.